

**REPORT ON THE**  
**Board of Massage Therapy**  
Montgomery, Alabama



**Department of**  
**Examiners of Public Accounts**

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May 24, 2006

Representative Howard Sanderford  
Chairman, Sunset Committee  
Alabama State House  
Montgomery, AL 36130

Dear Representative Sanderford,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Board of Massage Therapy** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Board of Massage Therapy**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Jones", written in a cursive style.

Ronald L. Jones  
Chief Examiner



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# **PROFILE**

## **Purpose/Authority**

The Alabama Board of Massage Therapy licenses massage therapists, massage establishments, massage therapy schools, and massage therapy instructors in Alabama. The board investigates complaints regarding licensees as well as those practicing without a license. The board also performs compliance inspections of massage therapy establishments. The board operates under the authority of the *Code of Alabama 1975*, Sections 34-43-1 through 34-43-21.

## **Board Characteristics**

<b>Members</b>	7
<b>Term</b>	4-year staggered terms. No member can serve more than two full consecutive terms.
<b>Selection</b>	The Governor appoints all members, subject to confirmation by the Senate
<b>Qualifications</b>	<ul style="list-style-type: none"><li>• Five members must have been actively engaged in the practice of massage therapy for not less than three consecutive years prior to the date of their appointment to the board.</li><li>• Two members must be public members who must not be licensed, nor have been licensed in the past, and who must not have any direct financial interest in the massage therapy profession.</li><li>• Citizen of the United States</li><li>• Resident of Alabama for two years immediately preceding appointment</li></ul>
<b>Racial Representation</b>	Minority representation on the board must reflect the racial diversity of the state... (currently 3 white males; 2 white females; 2 black females)
<b>Geographical Representation</b>	No statutory requirement
<b>Consumer Representation</b>	Two members must be public members. Two public members are presently serving. Public members must not have ever been licensed as massage therapists and must not have a financial interest in the massage therapy industry.
<b>Other Representation</b>	No statutory requirement

**Compensation**

None, but board members receive the same travel expense allowances provided to state employees for each day the board meets and conducts business.

**Operations**  
**Administrator**

Warren and Company, Inc. under contract with the board.  
Executive Director – Keith Warren  
Contract amount is for \$66,000 per fiscal year  
Contract ends 9/30/2006

**Location**

610 South McDonough Street  
Montgomery, AL 36104

**Examinations**

An examination is administered by an independent agency accredited by the National Committee for Certifying Agencies. The board has the authority to administer a written, oral, or practical examination but has never done so.

**Renewals**

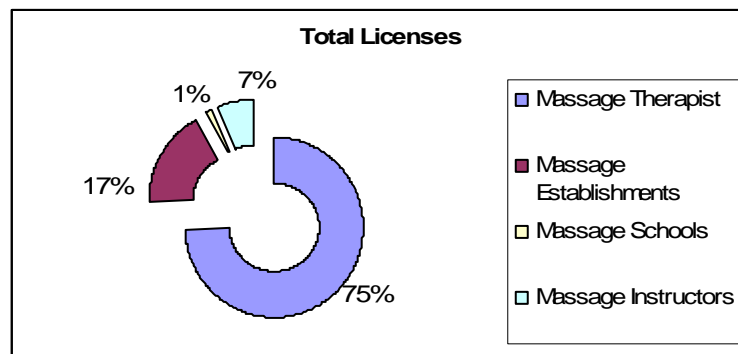
Massage therapists and massage therapy businesses are licensed biennially. Massage therapy schools register annually. Massage therapy instructors register once.

**Licensees**

Personal licenses, establishment licenses, schools, and instructors.

Active licenses as of October 13, 2005

• Massage Therapists –	1,093
• Massage Establishments –	254
• Massage Schools –	16
• Massage Instructors –	99
Total Licensees -	1,462



<b>Reciprocity</b>	The board may license an applicant, if the applicant is licensed or registered in another state, which, in the opinion of the board, has standards of practice or licensure that are equal to or stricter than the requirements imposed by Alabama licensure laws.
<b>Continuing Education</b>	Massage therapists must complete 16 hours of continuing education within a 24 month period. ( <i>Code of Alabama 1975</i> , Section 34-43-21)
<b>Employees</b>	None. The board contracts with Warren and Company, Inc. for administrative services and with Mike James for inspection and investigative services.
<b>Legal Counsel</b>	Mary Windom, Deputy Attorney General * Employed by the Electrical Contractors Board half-time; utilized by the Board of Massage Therapy under agreement with the Electrical Contractors Board.
<b>Subpoena Power</b>	None
<b>Internet Presence</b>	<a href="http://www.almtdb.state.al.us">www.almtdb.state.al.us</a> - contains <ul style="list-style-type: none"> <li>• Office contact information</li> <li>• Board members and contact information</li> <li>• Law</li> <li>• Rules and Regulations</li> <li>• Forms including; Letter to applicants, Instructions; Licensure requirements, Application package request form, Massage establishment licensure procedures; Consumer complaint form, application for licensure as a massage therapy instructor; and applications and renewals for massage therapists, establishments and schools</li> <li>• Disciplinary Actions taken</li> <li>• Newsletter (Spring 2004 last date posted)</li> <li>• Minutes of some meetings</li> <li>• Roster of Massage Therapists</li> </ul>
<b>Attended Board Member Training</b>	Board Members: Arnold Askew and Cynthia Harris attended the April 27, 2005 session. Keith Warren, Executive Director, attended the September 18, 2002 training session. Arwen Freeman, former Executive Assistant, attended the April 27, 2005 session.

## **Financial**

<b>Source of Funds</b>	Licensing Fees
<b>State Treasury</b>	Yes
<b>Unused Funds</b>	Unused funds are retained by the board

## **SIGNIFICANT ITEMS**

1. **Complaint and case files were not properly maintained.** The files were piled into a plastic box. Most files did not have a case number or action (status) sheet. Complaints are filed separately from licensee files and are recorded electronically on a spreadsheet. The spreadsheet was not provided to the examiner.

### **Response**

Complaints were not properly handled due to lack of funding. Complaint and case files have been properly filed and are being processed. The Executive Director and Legal Counsel are contacting various agencies and the Attorney General's Office to obtain new procedures of settling cases without automatically scheduling administrative hearings. This will allow the Board the opportunity to expeditiously resolve cases without the expense of an administrative hearing.

2. **Complainants are not satisfied with the board's efforts to resolve complaints.** We sent questionnaires to the 36 people who had filed complaints with the board. Of the 18 who responded:

- \* Fifty-five percent said the board did not acknowledge receipt of the complaint.
- \* Fifty-five percent (six of whom are included in the first 55%) said the board did not inform them of the complaint's resolution.
- \* Twenty-four percent said the board did not resolve the complaint in a timely manner.
- \* Fifty-nine percent were not satisfied that the board did all it could to resolve their complaint.

According to the executive director, complainants are notified upon receipt of the complaint and upon its resolution.

### **Response**

The Board has not had adequate funding to handle all complaints received. The Board is taking extreme measures to handle the complaints received. Due to a lengthy and very costly disciplinary case the Board has not had the adequate funding to pursue any disciplinary action against any complainant.

As mentioned above, the Board is researching other avenues to expeditiously resolve cases without an administrative hearing.

3. **By administrative, rule, the board improperly increased the number of hours required for initial massage therapist licensure to 1000 hours.** [Rule 532-X-3-.01(9) (c)] The law states that a minimum of 650 hours is necessary for licensure and the board may, by rule, increase the number of instructional hours not to exceed the hours recommended by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB). [*Code of Alabama 1975*, Section 34-43-9 (a) (1)] The NCBTMB requires 500 hours to sit for the national examination. According to the executive director, the board is using the statutory 650 hour minimum rather the rule's 1000 hour minimum; however, the improper rule continues to be presented to persons in or interested in the massage therapy industry.

**Response**

This rule was adopted in the past when it matched the statutory requirement of 1000 hours. The law was amended to removed the 1000 hour requirement and keep it at the current 650 hour requirement. However, the rule was not changed to reflect this change in the law. The Board has placed this administrative rule change on the agenda for its July 28, 2006 quarterly board meeting.

4. **Communication not Deemed Adequate** - During the board's August 8, 2003 meeting, the board approved a motion to publish a newsletter each year in the months of May and November. During a meeting on January 23, 2004 the board approved a motion to publish the newsletter in February and August. As of March 31, 2006, the latest newsletter posted to the board's website was for spring 2004. The executive director provided the examiner with a paper copy of the latest newsletter (Winter 2006).

Responses obtained from our survey of licensees indicate that communication between licensees and the board is not adequate. One school responding to our survey indicated that, "The board needs to find ways to communicate to the licensees. There are no strategies for the board to communicate besides the out-dated website and a newsletter that only comes out approx. once every two years." A massage therapist responded with "The Board does not communicate on a regular basis with MTs. A newsletter on at least a quarterly basis would be good. At the present time it seems a newsletter arrives only sporadically usually when the law is up for review."

**Response**

The Board had good intentions of biennial newsletter publications however, due to the inadequate funding of the Board it was unable to comply with its own wishes. The Board did produce a newsletter for winter 2006 and plans to publish one by the end of May 2006 to comply with its ruling of May and November newsletters. The website does have current information and is updated on a monthly basis.

5. **Lost or Missing Records** - While examining the records of the board for this review, numerous instances of lost or missing records were noted. Three sets of minutes of board meetings were not found, although references to the adoption of the missing minutes were made in the minutes that were available. Bid files were not maintained for bid contractual services, as required. Other instances of incomplete records are presented in the Status of Prior Findings section of this report.

The *Code of Alabama 1975*, Section 36-12-2 states that, "All public officers and servants shall correctly make and accurately keep in and for their respective offices or places of business all such books or sets of books, documents, files, papers, letters and copies of letters as at all times shall afford full and detailed information in reference to the activities or business required to be done or carried on by such officer or servant and from which the actual status and condition of such activities and business can be ascertained without extraneous information, and all of the books, documents, files, papers, letters, and copies of letters so made and kept shall be carefully protected and safely preserved and guarded from mutilation, loss or destruction."

**Response**

All missing records have been produced and placed in the appropriate places. The three sets of minutes have been filed in the official book of minutes for the Board. The bid documents have been requested and was an oversight for not maintaining a copy of the document in the Board office.

6. **Board Members Do Not Believe the Board is Adequately Funded** - Three of four board members responding to the questionnaire answered "no" to "Is the board adequately funded?" The remaining member did not respond to this question. In the minutes of 8/26/05, the board approved a motion to request a \$50,000 emergency loan from the Director of Finance. According to the executive director, the current cause of financial instability is an ongoing legal issue. The board provided information which showed that the Montgomery County Circuit Court ruled in favor of the board in upholding the revocation of a license and the levying of a \$10,000 fine. The board expended approximately \$40,000 on this case. In an effort to maintain financial stability, the board submitted legislation in the 2006 legislative session that would allow the board to set named fees by rule at its discretion. The legislation was not successful.

**Response**

Board members do not believe the Board is adequately funded and even made efforts to increase fees through legislation during this previous 2006 Regular Legislative Session. This legislation was not successful. The Board will continue to make efforts to pass this legislation in future legislative sessions, whether regular or special called sessions. The Board is also going to generate revenue with the possible new settlement agreements for disciplinary action that it plans to implement in the next few months.

7. **The board has not implemented either the law or its own rules concerning approval of continuing education providers and does not verify that reported continuing education is from approved providers.**

The *Code of Alabama 1975*, Section 34-43-21 (d) states that “The board shall evaluate applications from all providers of continuing education programs, including massage therapy schools and instructors, in order to determine if approval shall be granted or denied. (1) The provider or licensee shall submit to the board an application on a form provided by the board. Only applications which are complete will be considered. (2) The provider or licensee shall submit a complete application to the board at least 60 days prior to the date on which the training event is to be given to gain approval before the program is presented.”

According to the board’s Rule 532-X-6-.02 (3), continuing education providers “must obtain on a "sign-in-sheet" the printed name, signature, and license number of each licensee, with the name of the course, date, location, and CEU provider number at the top of the sign-in-sheet. A legible copy of the sheet shall be sent to the Board after the course has been presented.” According to Rule 532-X-6-.02 (1), providers are to apply for approval of the course 60 days prior to giving the course.

Presently, the board does not apply the above procedures and accepts any continuing education accepted by the American Massage Therapy Association (AMTA) or the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB). However, the board does not require its licensees to submit certificates from continuing education providers showing approval by these organizations and has no other procedures for verification that continuing education is approved by the organizations.

**Response**

The Board has recently implemented audit procedures to review continuing education hours submitted with licensees' renewal applications. The Board also plans to begin approving all continuing education providers in accordance with the law and rules and regulations. This matter has been placed on the Board's agenda for its July 28, 2007 Board meeting.

8. **A majority of licensees responding to the survey say they are not adequately informed of changes to the board’s rules and law.**

- \* Fifty-seven percent of responding establishments,
- \* Seventy-seven percent of responding instructors,
- \* Forty-one percent of massage therapist licensees responded they were not adequately informed of changes to rules and law concerning their practice.

**Response**

The Board has not made any changes to the law and rules and regulations in sometime. The changes that were made to the law in 2001 and to the rules and

regulations in 2005 were pertaining to schools and proper notification was mailed to each entity.

9. **The board continues to operate without current addresses for a significant number of licensees.** We mailed survey questionnaires to two hundred sixty licensees of all types. Overall, eighteen percent of those surveyed were returned undeliverable. The largest percentage of returned questionnaires was sent to instructor licensees. The board provided addresses for 99 instructors. Fifty instructors were surveyed. Thirty-two percent of surveyed instructors were returned undeliverable. Instructors register only once and no other correspondence is required.

**Response**

It is the licensees' responsibility to inform the Board of any change in their contact information. They are notified of this when they receive their license and it is mentioned in newsletters. There is even a change of address form provided on the website to complete and return to our office for records to be updated

10. **Eight respondents to our survey mentioned communication problems.** The respondents stated that their calls were not being returned or answered or, not returned timely. One mentioned that it is difficult to get anyone in the office.

**Response**

The office telephone is answered by a live person and calls are distributed to the appropriate party. Telephone messages are responded to however, some do not have voicemail or devices to leave messages stating we have tried to return their call. The Board is going to make every attempt to respond to calls as quickly as possible.

11. **Senate Bill 474, House Bill 584, Senate Bill 475 and House Bill 585 were submitted in the 2006 Legislative Session to Accomplish the Following:**

Remove the requirement that board member appointments be confirmed by the Senate,

Delete the requirement that a massage school be accredited by the State Department of Education,

Change the name of the administrative officer from executive secretary to executive director,

Remove the requirement that the board member's oath of office be filed with the governor,

Remove the requirement that licensees be United States citizens,

Increase the discretion of the board to provide by rule for a fair procedure for granting exemptions from licensure to establishments,

Provide further for the imposition of administrative fines.

Allow the board to set named fees at its discretion without statutory limits, including a renewal fee for instructor licenses where renewal had not previously been required.

None of the bills became law.

**Response**

These bills were presented during the previous Legislative Session to assist the Board in correcting many problems in the implementation of this statute. Two of the bills dealt directly with allowing the board to increase fees through the administrative rule process. The Board was waiting to revise its rules and regulations until this legislation passed, however, the revisions that need to be made to become compliant with its own statute has been placed on the agenda for its July 28, 2006 Board meeting.

## **STATUS OF PRIOR FINDINGS**

The conditions that resulted in the following prior findings continue to exist.

1. **Prior Finding: A provision in the board's licensing law (*Code of Alabama 1975, Section 34-43-9(2) (c)*) which requires that applicants for licensure must be United States citizens may be unconstitutional.** Section 34-43-9(2) (c) states that, "Notwithstanding any other provision of this section to the contrary, each applicant for licensure shall be a citizen of the United States." Enforcement of unconstitutional provisions increases the likelihood of lawsuits against the Board.

The U. S. Supreme Court in re Griffiths, 413 U. S. 717 (1973), held that exclusion of aliens from the practice of law violates the Equal Protection Clause of the Fourteenth Amendment. Also, the U. S. Supreme Court in Examining Board v. Flores De Otero, 426 U. S. 572 (1976) held that "The statutory restriction on the ability of aliens to engage in the otherwise lawful private practice of civil engineering is plainly unconstitutional."

This finding appeared in past two regular examinations by the Examiners of Public Accounts.

**CURRENT STATUS:** The board sought corrective legislative action for the first time this year (HB584 and SB474). The legislation was not successful.

**Response**

The Board attempted to correct this requirement in HB 584 and SB 474 which were unsuccessful in both houses.

2. **Prior Finding: The board has promulgated rules which conflict with Alabama law and has implemented application forms without regard to the Alabama Administrative Procedure Act as follows:**

- The *Code of Alabama 1975*, Section 34-43-6 (c) states that, “Of the initial seven appointees to the Board, three members shall be appointed for terms ending September 30, 1997, and four members shall be appointed for terms ending Sept 30, 1999. Thereafter, successors shall be appointed for terms of four years, each term expiring on September 30.”

**Rule 532-X-2-.01 (1)** states that, “The Board shall consist of seven members, of whom five will be licensed massage therapists and two will be public members. The Board members shall serve no more than two consecutive full terms of two years each...”

- The *Code of Alabama 1975*, Section 34-43-6 (f) states that, “The Board shall hold its first meeting within 30 days after the initial members are appointed. The Board shall hold meetings during the year as it determines necessary, two of which shall be the biannual meetings for the purpose of reviewing license applications. Additional meetings may be held at the discretion of the chair or upon written request of any three members of the Board. A quorum of the Board shall be a majority of the current appointed board members.”

**Rule 532-X-2-.01(3)** states that, “The chairperson shall conduct the biannual and additional Board meetings, and ascertain the presence of a quorum of at least four Board members prior to conducting the business of the Board. The chairperson shall call meetings in...”

- The board adopted and implemented application forms without regard to the Administrative Procedure Act. The forms have not been filed with the Legislative Reference Service or published in the Agency Administrative Code, as required by the Administrative Procedure Act

The *Code of Alabama 1975*, Section 41-22-3 (9) provides the following definition of a rule. “Each agency regulation, standard or statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure, or practice requirements of any agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or an existing rule or by federal statute or by federal rule or regulation; *All forms must be filed with the secretary of the agency and the Legislative Reference Service and all forms (except intergovernmental, interagency, and intra-agency forms which do not affect the rights of the public and emergency forms adopted pursuant to 41-22-5) must be published in the Agency Administrative Code.*”

We recommended in 2002 that the board should adopt its application forms in accordance with the Administrative Procedure Act and publish the forms in the board's Administrative Code

**CURRENT STATUS:** The minutes of the board's October 11, 2003 meeting show that a motion was approved to correct rules 532-X-2-.01(1) and 532-X-2-.01(3) regarding quorum requirements and the terms of board members; however, no administrative action has been taken to make the changes approved by the board. The board's forms remain unpublished.

**Response**

These matters will be corrected at the Board's July 28, 2006 Board meeting.

**3. Prior Finding: Based upon the Department of Archives and History publication, *Guidelines for Taking Formal Minutes*, the minutes of the Board's fourteen meetings held during the period examined have the following errors:**

- Nine instances of not recording who was absent;
- Fourteen instances of not recording the time of adjournment;
- One instance of not approving and adopting the minutes at a meeting;
- Two instances in which the chair did not sign the minutes.

Errors in form, content, and validation reduce the credibility of minutes as an official record of board actions.

We recommended that the board should follow Guidelines for Taking Formal Meeting Minutes published by the Department of Archives and History on its Internet website at

<http://www.archives.state.al.us/officials/minutesoct00.html>.

**CURRENT STATUS:** The examiner requested the minutes of three meetings that were not provided. In the minutes that were provided, the examiner found forty-three (43) errors. In nine (9) instances public notice of the meetings was not given, a condition that is not in compliance with Alabama's Open Meetings Law. The board faxed a notice to the Montgomery Advertiser for all meetings, but in these nine (9) instances, the notice was not posted and the board did not follow up to insure that notice was posted. The board is now complying with the notice requirements of the new Open Meetings Act since it became effective October 1, 2005 by posting meeting notices on the Secretary of State's Internet meeting notification website.

One set of minutes was not signed by both the chairman and the recording secretary. Nine (9) sets of minutes did not reflect the time of adjournment. Seven (7) sets of minutes did not reflect who was absent. Thirteen (13) sets of minutes did not note the date, time and place of the next meeting. One (1) set of minutes did not note the time of an executive session.

**Response**

Appropriate procedures are being followed to correct the noted problems in the Board's minutes. All meetings are posted on the Secretary of State's Website in compliance with the new Alabama Open Meetings Act and all meetings are advertised on the Board's website.

4. **Prior Finding: Licensee files contained errors in or omissions of documentation showing compliance with the massage therapy licensing law.** In a sampling of fifteen massage therapist files, ten did not have required proof of current liability insurance, and one was not notarized, as required by the board. In a sampling of three establishment files, none had proof of required current liability insurance. The file of one school sampled did not have proof of accreditation from the Department of Postsecondary Education. One application was faxed, which the board has specifically made unallowable.

The *Code of Alabama 1975*, Section 34-43-7(a) (8) requires the board to “Adopt rules that require massage therapists to carry professional and general liability insurance with an "A" rated or better insurance carrier in the amount of at least one million dollars (\$1,000,000). The massage therapist shall produce evidence of coverage upon request of the Board.” The board’s initial and renewal application forms require proof of insurance to be submitted with the application.

The board’s administrative rule 532-X-3-.03. Application And License states that:

- (1) The Board shall adopt and make available an application form. On the return of the form to the Board by the applicant, the form shall remain the property of the Board. No application received by facsimile will be accepted.
- (3) All applications must be submitted in English, type or printed in black ink. (NOTE: The board’s applications require the signature of the applicant to be notarized.)

Rule 532-X-3-.04. Establishment Licensure.

- (5) The applicant may be requested to submit to the Board evidence of or written policy covering the following:

(a) **Current liability insurance coverage for bodily injury and property damage for the establishment; [required on both initial and renewal applications]**

The *Code of Alabama 1975*, Section 34-43-3(3) (a), provides that a board-approved massage therapy school is one where massage therapy is taught and, **“If located in Alabama is accredited by the Department of Education** [Department of Postsecondary Education actually has jurisdiction here] **and**

**approved by the board as meeting the minimum established standards of training and curriculum as determined by the Board.”**

We recommended that the board should ensure that all qualifying criteria are met prior to issuing any license and that proof of having met the criteria are documented in the records of each licensee. Records should show that schools approved by the board have been accredited by the Department of Postsecondary Education.

#### **CURRENT STATUS:**

##### Massage Therapist Licensees

Of sixty-seven (67) Massage Therapy licensees sampled, twelve (12) did not report their social security numbers, six (6) did not have renewal documentation in their files, twenty-four (24) had no proof of required liability insurance, four (4) did not answer criminal background questions, two (2) were not notarized, and one (1) did not have the required educational hours.

##### Establishment Licensees

Of fourteen (14) establishment licensees sampled, five (5) did not include the Social Security number of the person completing the application, four (4) lacked proof of insurance, and one (1) application was not notarized.

##### School Licensees

Of sixteen (16) schools sampled, thirteen (13) had no renewal documentation, two (2) did not submit the required documents for licensure, one (1) listed an instructor who held an expired license, and none of the schools submitted a social security number of the person applying for the license. None of the schools had documentation of accreditation or licensure from either the State Department of Education (state school) or Postsecondary Education (private school). The examiner was able to locate state education licensure status for all but four schools on the Department of Postsecondary Education website. These four schools appear not to be accredited or licensed by the State Department of Education, the Department of Postsecondary Education, or accredited by an accreditation commission or agency recognized by the US Department of Education.

##### Instructor Licensees

Of thirteen (13) instructors sampled, none provided their social security numbers, six (6) did not have proof of experience, and one (1) was not a currently licensed massage therapist (LMT).

##### Licensees Generally

Of fifty-three (53) insured licensees tested, six (6) were not insured by a company rated "A" or better, as required. The examiner asked the executive director, how the board checked for the required rating. The executive director stated that he didn't know it had to be done and it is not being done. The

examiner was able to locate a rating for most of the companies from which licensees had insurance.

The board maintains licensee information, by type of license, in electronic spreadsheet format. The spreadsheets for massage therapist licensees provided to the examiner were incomplete. Our efforts to determine whether the spreadsheets were incomplete due to input error or due to the absence of the information in the source records (individual licensee files) revealed the following discrepancies: (see table on next page)

	Spreadsheet Error	Licensee File Error
No Social Security Number	120	3 Files missing entirely 12 no SSAN provided 1 Invalid SSAN provided*
Date of Birth Missing	4	0
Birth Date Outside range of possibility	**10	0
License # Missing	***180	

\* 6 digit number provided

\*\* 10 spreadsheet records had a birth date year ranging from 1990 – 2154 (a massage therapist must be at least 18 years of age). All dates provided on the applications were prior to 1981;

\*\*\*All of these instances are temporary licenses for which licensee files were filed separately from those of other licensees.

**CURRENT STATUS:** When asked for the status of this prior finding, the executive director addressed only the issue of the four unaccredited schools and stated that, “*We currently require copies of that [accreditation] documentation.*”

### **Response**

All information is required before any license is issued. Pertaining to massage therapy schools, the Department of Education does not accredit any school and under certain circumstances a school may be exempt from holding a license from this department. Code of Alabama, 1975, Section 16-43-3 "(a) This chapter shall not apply to any of the following schools nor to any person in regard to the operation of such school, except for the condition stated in this section..." "(8) programs of study regulated by other state boards, commissions or agencies requiring school licensure and/or performance bonding where the appropriate regulatory agency requires a license under this chapter." The Board tried to remove the accreditation language from its statute during this past Legislative Session, however, it failed to pass.

5. **Prior Finding: The term length of the most recently appointed board member does not meet the requirements of the board's enabling statutes.** The Governor's Office appointed a board member in error to a term that will end on September 30, 2005 rather than to a term that would correctly end on September 30, 2003. The length of this appointment defeats the mandatory timing of expiration of terms created by the board's enabling statutes.

The *Code of Alabama 1975*, Section 34-43-6(c), provides for the initial appointment of board members to one and three-year terms and to 4-year terms thereafter, resulting in the staggering of expiration of terms in two-year intervals. This section further provides that in the event of a vacancy, the Governor shall by appointment fill such unexpired term. The term of the vacant position to which the Board member was appointed ended in September 30, 1999 and would again end on September 30, 2003. The appointed term of the new member will end on September 30, 2005; two years later than the term would normally expire. Attorney General's Opinion 95-00169 to the Board of Chiropractic Examiners states that appointment of board members to terms other than those originally set forth by statute are not appropriate and defeat the legislative intent of staggered terms.

The *Code of Alabama 1975*, Section 34-43-6 (b), states that the Board shall consist of seven members appointed by the Governor, subject to confirmation by the Senate. No member of the Board shall serve more than two full consecutive terms. Subsection (c) states that of the initial seven appointees to the Board, three members shall be appointed for terms ending September 30, 1997, and four members shall be appointed for terms ending September 30, 1999. Thereafter, successors shall be appointed for terms of four years, each term expiring on September 30.

We recommended that the board should seek to have the member's appointment term corrected by the Governor's Office to meet the requirements of the board's enabling statutes.

We noted in a later examination in 2003 that the board had not sought a correction of a board member's term and again recommended that the board should seek to have the board member's appointment term corrected by the Governor's Office to meet the requirements of the board's enabling statutes.

**CURRENT STATUS:** The term of the member was not corrected. The improper term has expired, and a replacement has been appointed. However, the new member's appointed term is incorrect because the outgoing member's term was not corrected.

**Response**

The Governor's Office has been notified of this matter and it continues not to be corrected.

6. **Prior Finding: During the examination we found that receipts had lag times ranging from three days to one month from receipt to deposit in the State Treasury.** These conditions unnecessarily increase the risk that state funds could be lost or misused.

We recommended that the board should ensure that all checks are restrictively endorsed at the time of receipt and deposited in a timely manner.

In the next examination, we noted that receipts continued to have unacceptable lag times between receipt and deposit. A sample of current deposits (fiscal year 2003) revealed lag times are ranging from 41 to 121 days. We again recommended that the board should deposit receipts in a timely manner and recommended that deposits of funds received should not occur more than one week after receipt.

**CURRENT STATUS:** In a sample of receipts, lag times between receipt and deposit continues to be in excess of one week. For this Sunset Review, the examiner selected two certificates of deposit containing 126 individual amounts received. Lag times for these two deposits were from 1 - 29 days.

During onsite work in February 2006, the examiner noted six stacks of application files. A glance at the top applications of each file revealed that money orders received in January 2006 had not been deposited. The money orders remained attached to the applications. The on-site work began February 16, 2006. A week later, the examiner noted that no change had occurred in the stacks other than that more applications had been added. According to staff, the files were awaiting board review before the money orders were deposited. The examiner explained that the monies needed to be secured upon receipt and deposited within a week.

**Response**

Receipts are deposited into the State Treasury on a weekly basis. Receipts are posted daily and placed in the safe until the deposits are made every Thursday. The Board does not generate enough receipts to justify daily deposits. The files the examiner witnessed in the office was due to a staff change and was corrected as quickly as possible.

7. **Prior Finding: In the capacity of executive officer for state boards [including the Board of Massage Therapy], the contractor disbursed the boards' funds totaling \$35,078.70 to pay for items that were apparently utilized to provide the contracted services to the boards.** Individually the amounts were \$15,315.43, Board of Electrical Contractors; \$5,618.04, Board of Professional Geologists; \$3,786.28, Board of Home Medical Equipment Service Providers;

**\$7,107.39, Board of Massage Therapy;** and \$3,251.56, Board of Marriage & Family Therapy.

The purchase of items from third parties with board funds by Warren & Company, Inc. to be utilized to provide contracted services to the boards does not conform to the terms of the contracts. The contracts in Part IV Compensation and Expenses, state that “Payment shall be made only to the contractor, and the board shall have no obligation to any other person or corporation for expenses incurred by the contractor. The contractor has no authority to make any contracts, oral or written, in the name of the board.” Part V of the contracts state that, “The contractor shall have no power or authority to bind or otherwise obligate the board in any manner, except that the board shall make payment to the contractor for services and expenses incurred as provided herein.”

An inquiry of board members representing the various boards contracting with Warren & Company, Inc. was conducted in order to evaluate their understanding of the terms of their contracts. Although the contracts were signed and agreed upon by all parties, responses to the inquiries revealed a general misunderstanding of the items to be provided and/or services to be performed by Warren & Company, Inc. Some board members stated that the wording in the contract was too vague to define responsibility while others stated that their intentions were not in agreement with the provisions written into the contract. The boards had not adopted oversight procedures to monitor the contractor’s compliance with the contracts.

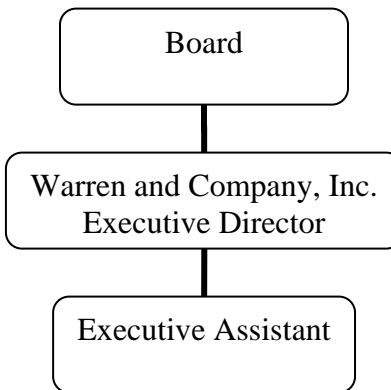
We recommended that the contractor should not expend the boards’ funds for any purpose without the written consent of the boards. The boards should not approve expenditures to 3<sup>rd</sup> parties or to the contractor to pay the expenses of providing the contracted services, except to pay the contractor the amounts agreed upon in the contract. We recommended that each board should adopt and record in the minutes of a meeting a clear description of the goods and services to be provided by the contractor. This description should be included in invitations to bid for contracts to provide administrative services to the board. In addition, each board should formally approve its contract with the successful bidder at a meeting before it is signed. We recommended that each board should require regular (monthly or quarterly) financial and other reports from the contractor that present information deemed necessary by the board to determine whether the contractor is adequately providing the contracted services under the terms of the contract.

**CURRENT STATUS:** During a meeting on October 14, 2005, the board authorized Warren and Company, Inc. to disburse payments to a list of approved vendors. Beginning April 2006, the board is supposed to receive a listing of all expenditures for the fiscal year and will review an update listing at each quarterly meeting.

**Response**

The Board has approved a list of vendors that the contractor is authorized to pay. The Board does approve expenditures at each quarterly meeting which began at its May 5, 2006 meeting. The questioned funds expended were in fact approved by the Board therefore no misappropriations were made of Board funds.

**ORGANIZATION**



**PERSONNEL**

There are no direct employees. The board has contracted with Warren and Company, Inc. to provide administrative services to include an executive director. The company maintains the board's records and performs administrative services for the board from its location at 610 South McDonough St. Montgomery, AL. The current contract with Warren and Company, Inc. is for \$66,000.00 annually to be paid in monthly installments. The contract expires September 30, 2006.

The board also contracts with an investigator, Carl "Mike" James, for investigative and inspection services. James stated that he is a full-time deputy sheriff with thirty years law enforcement experience. The current annual contract amount with James is \$18,000. The contract expires September 30, 2006.

The board has an agreement with the Electrical Contractors Board (ECB) for use of the services of its attorney, Mary Windom.

Bids, requests for proposal, and other contract documents were requested by the examiner but were not provided for any of the contracts.

## **PERFORMANCE CHARACTERISTICS**

### **Number of Persons per Licensee in Alabama and surrounding States**

State	Population (Estimate)	Number of Licensees	Persons per Licensee
Alabama	4,557,808	1,462	3,117
Florida	17,789,864	29,148	610
Georgia	9,072,576	N/A*	N/A
Mississippi	2,921,088	694	4,209
Tennessee	5,962,959	5,190	1,149

\*Georgia does not currently license massage therapists

### **Operating Disbursements per Licensee (2004-2005 fiscal Year) - \$ 56.74**

This amount is seven percent (7%) less than reported in the last Sunset report. (\$60.98 for the 2001-2002 fiscal year)

### **Notification to Licensees of Board decisions to Amend Administrative Rules**

The board complied with notification procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. Licensees are not specifically notified of proposed changes.

### **Inspection Process**

The board is authorized to inspect the premises of a new applicant for establishment licensure and has an administrative rule governing inspections (532-X-3-.04(6)). The rule states that, "Upon receipt of an application for a massage therapy establishment license, the Board may cause an initial inspection to be made of the site to confirm that the establishment meets the above requirements and is to be utilized for massage therapy and not for the purposes unlawful under the massage therapy statutes." According to the executive director, the board does not conduct initial inspections on a regular schedule, but does conduct site inspections randomly. During the period of fiscal years 2003-2005, one hundred eighty inspections were conducted.

According to Mike James, the board's investigator, James attempts to complete at least four establishment inspections per month. According to James, the following procedure is utilized. James chooses a town and plans to stay for 3-4 days in that area. Prior to traveling to the town, he searches the Internet for massage services in that area and prints maps to the locations found in his search. He also obtains the establishment licensee roster from the board to identify licensed establishments in the area to be inspected. Once

he arrives in town, he checks the local Yellow Pages for massage services. While inspecting each establishment, he asks where else in town massage services are offered, in order to obtain leads.

James uses a compliance checklist for the inspection process which includes the following items:

- Is the establishment number displayed?
- Are the employed massage therapists' license numbers displayed?
- Does the establishment have liability insurance coverage?
- Is the establishment compliant with state and local fire/safety requirements?
- Is there a provision for extermination?
- Is the establishment providing for the laundering and sanitation of equipment and linens?
- Does the establishment have adequate lavatory and toilet facilities?
- Does the establishment have adequate and sanitary shower facilities?
- Does the establishment have a copy of the Rules, Regulations, and Laws concerning massage therapy?

The inspection sheet is dated and signed by James. If there are compliance discrepancies, the establishment is given a correction deadline date, and the business is revisited. If an establishment does not cooperate with the inspection, disciplinary action is possible.

### **Complaint Process**

The board receives complaints from consumers, licensees, and board members. Complaints range from unlicensed therapists and establishments to sexual misconduct. Some complaints have been received concerning massage schools and/or instructors. Complaints are filed separately from licensee files and are maintained electronically using a spreadsheet. The spreadsheet was not provided to the examiner for this Sunset review; however, a list of complainants with addresses was obtained. According to the executive director, complainants are notified upon receipt of the complaint and upon its resolution; however, 55% of respondents to our questionnaires stated that they were not notified of the board's receipt of their complaint and 55% also stated that they were not notified of the resolution of the complaint. During this review, the examiner noted that complaint and case files were not properly maintained. The complaint documentation was piled into a plastic box and the majority of the documentation for each complaint was not separated into folders or envelopes. Most complaint documentation did not include a case number or action sheet with which to track progress toward resolution.

The *Code of Alabama 1975*, Section 34-43-7(5) authorizes investigation of complaints by the board, and the board's administrative rule 532-X-5-.04 addresses the complaint and discipline process. The following procedures were presented to the examiner.

<b>Initial Documentation</b>	Upon receipt of a signed complaint, the executive director notifies the complainant acknowledging receipt of the complaint.
<b>Investigative Committee Members</b>	After an investigation by the board's investigator, the complaint is addressed by the investigative committee of the board which is comprised of the investigator, the executive assistant, the board's legal counsel, and one board member from the geographical area from which the complaint was received.
<b>Formal Hearings</b>	If the board decides the allegations have merit, a formal hearing is scheduled, and witnesses are contacted. The accused has the right to appear personally and to have counsel present. If the board determines that the allegations do not have merit, the complaint is dismissed after an administrative hearing.
<b>Anonymous Complaints</b>	The board does not accept anonymous complaints.
<b>Investigative Board Members</b>	The board does not investigate complaints. The board utilizes a contract investigator for investigation of complaints.

### Complaint Resolution Statistics

Complaint Received in:		Complaint Resolved in:					
		FY 2002	FY 2003	FY 2004	FY 2005	Pending	Average Length of time (months)
FY 2002	18	11	4	0	0	3	4.3
FY 2003	19	0	11	3	0	5	3.1
FY 2004	23	0	0	7	4	12	4.7
FY 2005	20	0	0	0	5	15	2.6

One case, which began fiscal year 1999, was resolved in 2005. Elapsed time from the date of complaint receipt to resolution was sixty-five months. The nature of this complaint required an investigation into the behavior of the person complained against, which required more time than resolving a complaint against an unlicensed therapist or establishment.

Three of the current board members have submitted complaints. One board member submitted three complaints and two other members submitted one each. Of these, the time elapsed for resolution is one month. Only one board member complaint remained unresolved, which was submitted September 2005. All of the current board member complaints are reflected in the table on the previous page.

### **Disciplinary Actions**

During the period examined, the board took the following disciplinary actions:

- A license was revoked, and the licensee was assessed an administrative fine of \$10,000. The license was surrendered in August 2003. The fine has not been paid.
- Disciplinary action against a licensee was terminated – the board failed to establish a case.
- A cease and desist order was issued in a licensee's county of residence and the licensee was assessed an administrative fine of \$10,000 for practicing without a license. The board has not been able to locate the licensee, and the fine has not been paid.

### **Smart Budgeting**

The board has submitted a Smart Budgeting operations plan and has submitted the first quarter's performance report, as required. Both are included in the appendices of this report.

## **FINANCIAL INFORMATION**

### **Schedule of Fees**

<b><u>Fee</u></b>	<b><u>Amount Charged</u></b>	<b><u>Amount Authorized</u></b>	<b><u>Code of Alabama 1975 Statutory Authority</u></b>
Examination Fee	\$160	Not to exceed \$160	§ 34-43-14(a)(1)
License	\$100	Not to exceed \$100	§ 34-43-14(a)(2)
Renewal (biennially)	\$100	Not to exceed \$100	§ 34-43-14(a)(3)

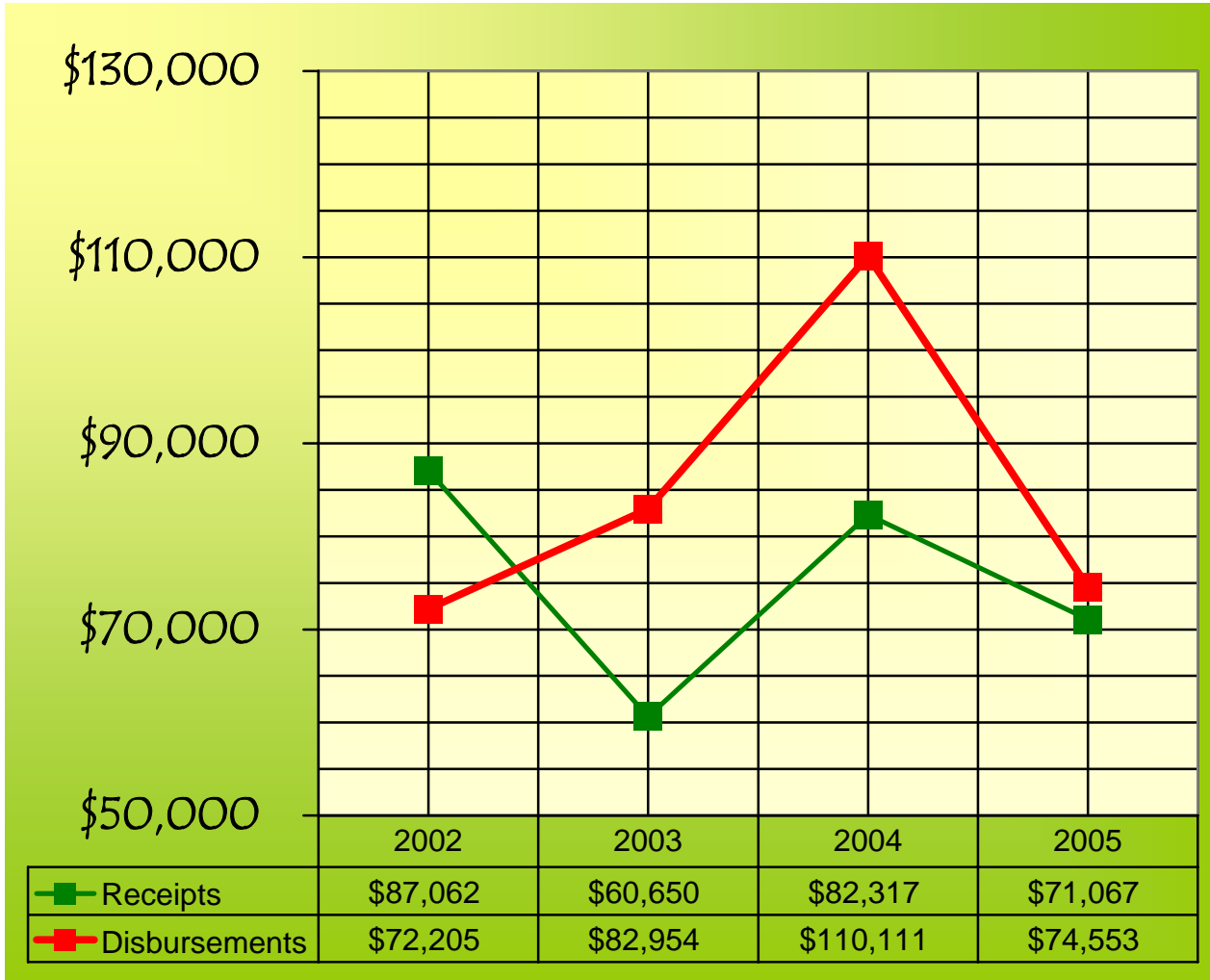
Initial Application Fee or Resubmission of initial application	\$25	Not to exceed \$25	§ 34-43-14(a)(4)
Initial Establishment License	\$100	Not to exceed \$100	§ 34-43-14(a)(5)
Renewal of Establishment License	\$50	Not to exceed \$50	§ 34-43-14(a)(6)
Initial Registration as Massage Therapy School	\$50	Not to exceed \$50	§ 34-43-14(a)(7)
Renewal for Massage Therapy School	\$10	Not to exceed \$10	§ 34-43-14(a)(8)
Massage Therapy Instructor Registration (one time fee)	\$10	Not to exceed \$10	§ 34-43-14(a)(9)
Reactivation of Inactive License	\$75	Not to exceed \$75	§ 34-43-14(a)(10)
Late fee	\$25	Not to exceed \$25	§ 34-43-14(a)(11)
License Verification	\$15	Not to exceed \$15	§ 34-43-14(a)(12)
Duplicate License Certificate or Name change on License	\$10	Not to exceed \$10	§ 34-43-14(a)(13)
Copy of Alabama Licensed Massage Therapists Roster	\$30	Cost Recovery	§ 34-43-14(b)

Copy of Approved Massage Therapy School's Roster	\$5	Cost Recovery	§ 34-43-14(b)
Copy fee (per page)	\$. 25	Cost Recovery	§ 34-43-14(b)
Postage and Handling	\$1.50 per item handling plus actual postage	Cost Recovery	§ 34-43-14(b)
Administrative Fine	Up to \$10,000		34-43- 15(d)(1)(a)

**Schedule of Receipts, Disbursements, and Balances**  
**October 1, 2001 through September 30, 2005**

	<b>2004-2005</b>	<b>2003-2004</b>	<b>2002-2003</b>	<b>2001-2002</b>
<b><u>Receipts</u></b>				
Licensing Fees	\$ 71,067.00	\$ 82,317.00	\$ 60,649.75	\$ 87,062.01
Transfer from Dept. Emergency Fund	50,000.00	-	-	-
Total Receipts	121,067.00	82,317.00	60,649.75	87,062.01
<b><u>Disbursements</u></b>				
Travel, In-State	1,254.64	4,162.38	3,920.45	3,536.77
Travel, Out-of-State	-	1,379.79	-	
Utilities & Communication	785.49	1,502.31	1,111.07	3,351.63
Professional Services	70,712.53	100,233.98	71,843.65	63,402.01
Supplies, Materials and Op. Expenses	1,800.06	2,832.51	6,079.22	1,914.76
Total Disbursements	74,552.72	110,110.97	82,954.39	72,205.17
Excess (Deficiency) of Receipts Over Disbursements	46,514.28	(27,793.97)	(22,304.64)	14,856.84
Cash Balances at Beginning of Year	12,905.47	40,699.44	63,004.08	-
Cash Balances at End of Year	59,419.75	12,905.47	40,699.44	14,856.84
Funds Reserved for Unpaid Obligations	(34,350.00)	(1,000.00)	(3,413.09)	5,229.51
Unreserved Cash Balance at Year End	\$ 25,069.75	\$ 11,905.47	\$ 37,286.35	\$ 9,627.33

Operating Receipts Vs Operating Disbursements (Chart)



The 2005 FY does not include the \$50,000 Transfer from the Departmental Emergency Fund.

## Questionnaires

### Board Members

A questionnaire was sent to all seven (7) board members. Four (4) responded and one (1) questionnaire was returned undeliverable.

#### Question #1

Would the absence of the board be detrimental to the public welfare?

  4   Yes                             No                             No Response

4. “Currently, we struggle with the fact that there are individuals practicing without a license. We need to ensure everyone (public) is protected from harm.”

#### Question #2

What changes in Alabama laws regulating massage therapy would you recommend?

1. “None”
2. “Testing requirements – NCBTMB should be removed”
3. “Antiquated language and moving breakdown of required hours to rules & regs – to adapt to changing Nat’l requirements as needed!”
4. “Change current law to reflect that all facilities providing massage should obtain establishment license which bounds them to the Law and require them to adhere to the law. Currently the law states facilities can apply if it is an integral part of the business. Most chose not to apply b/c it’s only a small portion, however, they also fail to request in writing an exemption. The change will eliminate such problems.”

#### Question #3

What is the most significant issue currently facing the board?

1. “People practicing massage that are not licensed.”
2. “finances”
3. “Financial inability to monitor growing industry (individual, corporate, educational)”
4. Updates and making crucial changes to the law. The current law needs clarification to better serve the massage community & general public.”

**Question #4**

**What is the board doing to settle this issue?**

1. "Responding to written documentation as far as complaints."
2. "Legislative changes to increase fees"
3. "Pursuing & fining expired & unlicensed therapist & establishments."
4. "It's our attempt to meet during the legislature to get these matter resolved.  
Hopefully, this will take place by Summer 2006."

**Question #5**

**Is the board adequately funded? If not, what actions should be taken to remedy the situation?**

\_\_\_\_\_ Yes                        3   No                        1   No Response

2. "legislation pending to remedy situation"
3. "Ref. # 3& 4"
4. "Our board is fee based. If there are any legal matters & hearings, this can be very expensive. We are proposing to the legislature to increase fees."

**Question #6**

**What is the purpose of the board's fiscal year end fund balance?**

1. "N/A"
2. "Any balance would be used in the next fiscal year; however, the board finances at this time do not allow any remaining balance. Licensing fees are too low and hearings (court, judge, etc.) have depleted funds."
3. "To carry over to the next year."
4. "To be carried over to the next fiscal yr for the purpose of continuing to provide services to Massage Therapist in the State of AI."

## **Massage Therapists**

A questionnaire was sent to one hundred (100) massage therapists. Thirty-nine (39) responded; twenty (20) were returned undeliverable.

### **Question #1**

**Is the regulation of massage therapy by the board necessary to protect the public welfare?**

\_\_\_35\_\_\_ Yes    \_\_\_2\_\_\_ No    \_\_\_2\_\_\_ No Response

23. "To a certain extent maybe not licensure if already nationally certified"

27. "Need more definition."

### **Question #2**

**Do the laws, regulations, and policies regulating massage therapists in Alabama constitute an unnecessary restriction on the profession?**

\_\_\_3\_\_\_ Yes    \_\_\_35\_\_\_ No    \_\_\_1\_\_\_ No Response

23. "but National certification should be enough"

39. "No, overall – however, there are some items that do"

### **Question #3**

**Are you adequately informed of changes to the rules and laws concerning the practice of massage therapy in Alabama?**

\_\_\_15\_\_\_ Yes    \_\_\_16\_\_\_ No    \_\_\_8\_\_\_ No Response

13. "Not sure"

20. "Changes in laws and rules could be included with relicensing literature."

25. "Never heard of any since I've been a LMT"

39. "I've been told of changes. I've never received a hard copy of...truth vs. rumor? I've actually called for clarification on issues and calls were not returned."

**Question #4**

**Did the board perform the licensing and renewal process in a timely manner? If not, how long did it take to receive your license?**

\_\_\_32\_\_\_ Yes \_\_\_4\_\_\_ No \_\_\_3\_\_\_ No Response

\_\_\_1\_\_\_ 1 month \_\_\_4\_\_\_ 2 months \_\_\_2\_\_\_ 3 months or longer

39. "This year they did. Much improvement over previous years."

**Question #5**

**Has any member of the Board or its staff asked for money (other than normal fees), services, or other things of value in return for a license?**

\_\_\_1\_\_\_ Yes \_\_\_39\_\_\_ No

**Question #6**

**Has any member of the board's staff requested you send your application in accompanied with a blank check to obtain a license?**

\_\_\_1\_\_\_ Yes \_\_\_37\_\_\_ No \_\_\_2\_\_\_ No Response

**Question #7**

**Are you satisfied with your dealings with the Massage Therapy Board? If not, please explain.**

\_\_\_32\_\_\_ Yes \_\_\_5\_\_\_ No \_\_\_2\_\_\_ No Response

26. "When I e-mailed, phoned to inquire about why my license was unduly delayed, I didn't receive a response in a timely manner. Also while attending [REDACTED] there were several issues that caused me to file a complaint and an investigation began. However, to date I've yet to find out what action if any the Board took. I assume none, because the school is still operating. Appears that the owner gets by with doing whatever wants."

39. "My calls R/T scope of practice were not returned. Board members not elected, not knowledgeable about own policies. (one instance). Have requested information from board member on an issue twice, never was followed up."

**Question #8**

**What do you think is the most significant issue currently facing the practice of providing massage therapy services in Alabama?**

1. "I think the Board is doing ok."
2. No comment
3. No comment
4. No comment
5. "?"
6. No comment
7. No comment
8. No comment
9. "Individuals performing "massage" w/o license."
10. No comment
11. "If the State of Alabama recognizes massage as medical, which other states do, then insurance would pay if medically necessary. This would help a lot of people significantly and allow them to get natural relief."
12. No comment
13. "Quality of massage therapy school curriculum."
14. "There are more male "Happy endings" then there are women. Nothing seems to be done about it."
15. No comment
16. "Third party reimbursements"
17. "Insurance; insurance companies in Florida and many other states recognize M.T. and are willing to pay for it. Why is Alabama consistently 20 years behind on issues like this?"
18. No comment
19. "Wiping out "massage parlors"
20. "Tracking down violators and enforcing discipline"
21. No comment
22. "too many therapist with licenses whom are not of good quality"
23. "not enough education for therapists, timing it takes to get license and national certification when all a therapist should need is a national certification"
24. "Client getting reimbursed by insurance for massage therapy"
25. "Unlicensed massage therapists practicing in AL (mostly out of their homes)"
26. "1) Many therapists in my area are practicing massage therapy without being properly licensed and the employers are allowing this, making money and this hurts those of us who studied many long hours to pass the NCBTMB exam. 2) The massage therapist who were grandfathered in and were not required to take the NCBTMB are not as educated and their lack of knowledge dilutes the profession. Some of these therapists cannot even name the muscles in the body, etc."
27. "I have no issues."
28. No comment

29. "Massage "parlors" are still linked to prostitution and prostitutes still use the name "massage therapist" as a cover up."
30. "If massage is to be regulated by law, then the Board needs to pay more attention to the schools and actual education the schools provide."
31. No comment
32. "The most important issue is to identify business using the massage therapy front for improper or illegal purposes, and identify therapist who would use their profession for improper or illegal services."
33. "Massage therapists who provide unethical services that give the legitimate LMT's a bad name."
34. No comment
35. No comment
36. "Working with the Federation of State Massage Therapy Boards to ensure consistency among the states – their standards & exam process & quickly approve the training & experience of LMTs moving into the state"
37. "Quality of massage education in Alabama schools – inadequate!"
38. "People need to know the difference between professional massage therapist & people who are not licensed professionals (old stereotypes)."
39. "So many different types of bodywork being grouped together under this board – scope of practice becomes confusing. Also, is any research done on the "need" for massage therapists before a school is opened? Or how many a school can graduate?"

### **Question #9**

#### **How has the board addressed the issue?**

1. No comment
2. No comment
3. No comment
4. No comment
5. No comment
6. No comment
7. No comment
8. No comment
9. "I personally have called 2x and the matter was handled immediately.
10. No comment
11. "I don't know."
12. No comment
13. "I'm not sure if they are involved with that"
14. "Have no clue"
15. No comment
16. "I am not sure as it seems to be an insurance issue"
17. "I truly do not know."
18. No comment
19. No comment

20. "We were getting a quarterly newsletter a few years ago informing therapist who was in violation and how the penalty was punished. However, those newsletter have stopped."
21. No comment
22. "I don't know."
23. "No idea"
24. "I have been told that the board is still working on this one"
25. "Don't know"
26. "I assume that when an unlicensed therapist is reported that they investigate. Communication from the Board is few and far between."
27. "N/A"
28. No comment
29. "I don't know."
30. "I don't know."
31. No comment
32. "The State of Alabama now requires a massage therapy license and testing for such, which is helpful. The board is working to monitor these therapists. Requiring CEU's and insurance is important. Increasing hrs required for CEU's and initial license may help."
33. "I'm not sure."
34. No comment
35. No comment
36. "The board sent a board member to the meeting – at which the Federation was formally formed, and is considering becoming a member."
37. "Hasn't. Turned their eye to illegal actions at [REDACTED]."
38. "The board investigates unlicensed establishments claiming to do massage therapy but I am not sure how effective they have been with this. Many stay open anyway."
39. "My calls have not been returned. When board members have been asked in person to clarify – they would "have to look into it", but have not followed through."

### **Question #10**

**Please feel free to discuss any matters of concern to you not addressed by this questionnaire.**

1. "The only complaint I have is the fact that when I applied for licensure in Alabama they told me that I would have to go back to school to get an additional 100 hrs. I have been practicing as a Nationally Certified Therapist for 10 yrs and when I graduated Alabama was not even a licensed state. I feel that the Board should honor (grandfather) therapists who are licensed Nationally and by other states, who may not have taken the required number of hours in school because therapists who are licensed have to continue their education to keep that license."
2. No comment
3. "I am satisfied with the job of the State Board of Massage Therapy"

4. No comment
5. No comment
6. No comment
7. No comment
8. No comment
9. No comment
10. No comment
11. No comment
12. No comment
13. "I would like to see Massage Therapists being more involved with the board. For instance, being told of and invited to meetings, having representation on the Board. Alabama really should be proud of the steps that have been taken to acknowledge massage therapy with licensure and setting a standard to be followed. I moved here from Massachusetts where licensure is set by each town. I think your requirements are fair and just."
14. "The male "Therapist" does not drape properly – stretches in unnecessary positions, causes sheet to remove itself, breast revealed easily. Males lifting legs straight up when female turns on back to drape sheet –vagina and butt revealed. This is done by 4 male therapist in Mgm. Alabama."
15. No comment
16. No comment
17. Why does the board only meet four times per year? Other states, Missouri for example, will process applications year round. I believe this will accommodate many applicants in a positive way."
18. "I have had really good responses to any of my requests from the staff of the Massage Therapy Board over the years. They have always been very friendly and polite and timely. Thanks for your concern."
19. "It would be nice if a consumer could go to your website to confirm if a person was licensed. The Board should provide, or we could purchase, stickers to place on doors of businesses so consumers could recognize legitimacy of business/therapist. It would be nice if the Board could prepare public relations/educational brochures for us to purchase to distribute. These could also generate a small income for Board investigations."
20. "Minimum requirement (650 hrs) was considered for increase (750 or 1000 hrs). I think this is a good idea and it should be reintroduced to the State for consideration."
21. No comment
22. "Should have a "hands on" part of the boards."
23. No comment
24. No comment
25. "I think the board needs to check on schools. I heard from several clients that some schools have students working without supervision from a licensed MT Instructor"
26. "I would truly like for all massage therapists to be Nationally Certified as this test really sets the standard high for our profession and will weed out those who are not up to speed. A therapist must know about all the systems of the body and how

- they relate in order to protect the safety and well-being of the client. In order for this profession to have the recognition of one of professionalism and integrity it is very important that the Board truly enforce all the rules and regulations concerning licenses of therapists as well as establishments both spas and schools.”
27. No comment
28. No comment
29. No comment
30. “The Board does not communicate on a regular basis with MTs. A newsletter on at least a quarterly basis would be good. At the present time it seems a newsletter arrives only sporadically usually when the law is up for review. There’s no notice to MTs when the Board is going to meet so MTs could attend meetings. And I don’t think the MT schools are providing the education necessary.”
31. No comment
32. No comment
33. No comment
34. No comment
35. No comment
36. No comment
37. “Cont. from #9. [REDACTED] had a 19 yr. old teacher w/ less than 2 yrs licensed experience as a MT, instructing classes. Mr. Keith Warren was informed of this, and he did nothing. I wasted \$6,000 on this “massage education” – everything I learned was from the books we were given. All the schools instructors were unable to teach adequately.”
38. No comment
39. “Director and Board members need to be elected and tested on their knowledge base of issues pertaining to their role as well. I’m encouraged that renewal applications have been sent out in a timely manner since the last Sunset review. Evidently R/t more staff, finds motivation? However, it’s still disheartening that calls are not returned esp. when clarification for scope of practice is the issue. I see this as one of the board’s most important roles. Now the Board wants more money from fees and more power. However, before this happens there needs to tracking of just how staff utilizes time (i.e. log of calls, issue, time involved, resolution etc., renewal forms) and administration utilizes funds. Appreciate your role in quality control.”

## **Massage Therapy Schools**

A questionnaire was sent to ten (10) massage therapy schools. Six (6) responded.

### **Question #1**

**Is the regulation of massage therapy by the board necessary to protect the public welfare?**

\_\_\_6\_\_\_ Yes    \_\_\_ \_\_\_ No    \_\_\_ \_\_\_ No Response

### **Question #2**

**Do the laws, regulations, and policies regulating massage therapists in Alabama constitute an unnecessary restriction on the profession?**

\_\_\_1\_\_\_ Yes    \_\_\_5\_\_\_ No    \_\_\_ \_\_\_ No Response

### **Question #3**

**Are you adequately informed of changes to the rules and laws concerning the practice of massage therapy in Alabama?**

\_\_\_4\_\_\_ Yes    \_\_\_2\_\_\_ No    \_\_\_ \_\_\_ No Response

### **Question #4**

**Did the board perform the licensing and renewal process in a timely manner? If not, how long did it take to receive your license?**

\_\_\_5\_\_\_ Yes    \_\_\_1\_\_\_ No    \_\_\_ \_\_\_ No Response

\_\_\_ \_\_\_ 1 month    \_\_\_1\_\_\_ 2 months    \_\_\_ \_\_\_ 3 months or longer

### **Question #5**

**Has any member of the Board or its staff asked for money (other than normal fees), services, or other things of value in return for a license?**

\_\_\_ \_\_\_ Yes    \_\_\_6\_\_\_ No

**Question #6**

**Has any member of the board's staff requested you send your application in accompanied with a blank check to obtain a license?**

  1   Yes     5   No          No Response

6. "Requested for me to send a blank money order in the amount of \$100 for purchase of license and they said that they would fill out their business name on it."

**Question #7**

**Are you satisfied with your dealings with the Massage Therapy Board? If not, please explain.**

  5   Yes          No     1   No Response

6. "I think there is room for improvement."

**Question #8**

**What do you think is the most significant issue currently facing the practice of providing massage therapy services in Alabama?**

1. "Penalizing/fining/revoking unlicensed massage therapists who are currently practicing."
2. "Educating the public"
3. "People misrepresenting the massage industry and operating without a license"
4. "NCBTMB"
5. "unlicensed practitioners"
6. "Not being able to receive licensure in a timely manner. After one finishes their certification requirements it takes approximately 3 to 5 months before receiving license."

**Question #9**

**How has the board addressed the issue?**

1. "They are unable to go after these therapists due to lack of funds."
2. "I don't think it is the boards responsibility."
3. "encourages public to file complaints and investigates"
4. "No"
5. "more investigative and disciplinary activity"
6. "Banned the use of temporary licenses, not helping this problem what-so-ever.  
Also board only meets (4-6) times a year to approve/renew licenses. They need to

meet once a month to handle the application process and approval of licensure and renewals of licensure.”

**Question #10**

**Please feel free to discuss any matters of concern to you not addressed by this questionnaire.**

1. No comment
2. “I think the board should charge more money for the people who do not renew in a timely manner or make them retake the National as incentive to keep updated licenses.”
3. No comment
4. No comment
5. “The Board needs to work toward gaining recognition of the profession so that more insurance companies will cover services.”
6. “1. There has been an irregular fines for those who committed disciplinary actions – The board needs to regulate proper fines for those who commit the same disciplinary action. And impose harsher penalties for those who commit acts of sexual nature. 2. There needs to be an updated version of the Rules and Regs. 3. The board needs to find ways to communicate to the licensees. There are no strategies for the board to communicate besides the out-dated website and a newsletter that only comes out approx. one every two years. All responsibilities of obtaining license, renewals, proposing investigations, (everything) are held by the massage therapist.”

**Massage Therapy Instructors**

A questionnaire was sent to forty-nine (49) massage therapy instructors. Fourteen (14) responded and sixteen (16) were returned undeliverable.

**Question #1**

**Is the regulation of massage therapy by the board necessary to protect the public welfare?**

\_\_\_10\_\_\_ Yes \_\_\_3\_\_\_ No \_\_\_1\_\_\_ No Response

**Question #2**

**Do the laws, regulations, and policies regulating massage therapists in Alabama constitute an unnecessary restriction on the profession?**

\_\_\_2\_\_\_ Yes \_\_\_12\_\_\_ No \_\_\_\_\_ No Response

**Question #3**

**Are you adequately informed of changes to the rules and laws concerning the practice of massage therapy in Alabama?**

\_\_\_3\_\_\_ Yes \_\_\_8\_\_\_ No \_\_\_3\_\_\_ No Response

4. "I haven't heard of any changes. I feel they would let me know."

**Question #4**

**Did the board perform the licensing and renewal process in a timely manner? If not, how long did it take to receive your license?**

\_\_\_12\_\_\_ Yes \_\_\_1\_\_\_ No \_\_\_1\_\_\_ No Response

\_\_\_\_\_ 1 month \_\_\_1\_\_\_ 2 months \_\_\_\_\_ 3 months or longer

**Question #5**

**Has any member of the Board or its staff asked for money (other than normal fees), services, or other things of value in return for a license?**

\_\_\_\_\_ Yes \_\_\_14\_\_\_ No

**Question #6**

**Has any member of the board's staff requested you send your application in accompanied with a blank check to obtain a license?**

\_\_\_\_\_ Yes    14 No    \_\_\_\_\_ No Response

**Question #7**

**Are you satisfied with your dealings with the Massage Therapy Board? If not, please explain.**

11 Yes    2 No    \_\_\_\_\_ No Response

4. "Very. Keith is always willing to help."

11. "Sometimes it is difficult to get [REDACTED] to the phone to answer questions or to return phone calls."

**Question #8**

**What do you think is the most significant issue currently facing the practice of providing massage therapy services in Alabama?**

1. "Training and standards for massage schools."
2. "Massage therapy continuing education credits need to be more available to therapist. We need to know more about legislative issues."
3. "Educating the public"
4. "Educating the public"
5. No comment
6. "NCBTMB exam required to obtain a license. NCBTMB is a monopoly and has no need to be responsive to individual needs."
7. "No therapeutic massage . Prostitution licensed by the State"
8. "slow response"
9. "Having to pass National Certification exam"
10. No comment
11. "Unlicensed people working primarily in "spa" settings."
12. "Education of therapists"
13. "Insurance acceptance"
14. "I feel that our scope of practice is very limited in Alabama compared to the laws in other states."

**Question #9**

**How has the board addressed the issue?**

1. "I do not know"
2. "I do not know."
3. "I don't feel like it is the responsibility of the Board"
4. "I feel it is the responsibility of the LMT is Alabama to bring more awareness to the community."
5. No comment
6. "The Executive Director has been of some assistance in prodding NCBTMB to provide timely service but I am not aware of any attempt by the Board to resolve the problem."
7. "Random inspections"
8. No comment
9. "Not sure. State exam to work in AL would be better."
10. No comment
11. "I believe the board has contracted the services of an agency to locate and report individuals operating w/o licenses."
12. No comment
13. "N/A"
14. "I don't know"

**Question #10**

**Please feel free to discuss any matters of concern to you not addressed by this questionnaire.**

1. No comment
2. No comment
3. "N/A"
4. "I think J. Public needs to be aware of the Alabama Board of Massage Therapy and a way for all clients to complain or know they have a right to complain if they feel there massage therapist has done something improper."
5. No comment
6. "Some years ago it was possible for the Executive Director to issue a temporary license to practice between board meetings. This practice was ended, I believe because it was not supported by law. With the foot-dragging of the NCBTMB and the length of time between Alabama Board meetings, it can take up to 3 months to get a license to practice. There has to be a better way."
7. "More inspections of schools and establishments"
8. No comment
9. No comment
10. No comment
11. No comment

*Massage Therapy Instructor Questionnaires*

- 12. No comment
- 13. No comment
- 14. "I think it would be good to list in the paper at least once a year the names of the licensed therapist. Also list names of therapist who have let their license expire or who are expected of working with out a license."

## **Massage Therapy Establishments**

A questionnaire was sent to one hundred (100) massage therapy establishments. Fifty-two (52) responded and nine (9) were returned undeliverable.

### ***Question #1***

**Is the regulation of massage therapy by the board necessary to protect the public welfare?**

46 Yes    2 No    4 No Response

5. "Not certain if licensing therapists might not be enough. At risk of losing ability to control businesses operating as massage clinics might be too great to abandon current methods."

51. "Maybe away to collect an additional \$100.00."

### ***Question #2***

**Do the laws, regulations, and policies regulating massage therapists in Alabama constitute an unnecessary restriction on the profession?**

2 Yes    45 No    5 No Response

16. "not to my knowledge"

33. "Just moved from Ohio, licensure is by the State Medical Board and has been in place for a long time. Most kinks in the system have been worked out."

### ***Question #3***

**Are you adequately informed of changes to the rules and laws concerning the practice of massage therapy in Alabama?**

24 Yes    15 No    13 No Response

5. "But how would we know if we weren't?"

28. "Unsure"

44. "Haven't received anything until this week about reporting practitioners' license."

**Question #4**

**Did the board perform the licensing and renewal process in a timely manner? If not, how long did it take to receive your license?**

\_\_\_45\_\_\_ Yes    \_\_\_5\_\_\_ No    \_\_\_2\_\_\_ No Response

\_\_\_\_\_ 1 month        \_\_\_1\_\_\_ 2 months        \_\_\_2\_\_\_ 3 months or longer

7. "6 months from graduation to receive license"

26. "sent in mid-Dec 05 still don't have it"

**Question #5**

**Has any member of the Board or its staff asked for money (other than normal fees), services, or other things of value in return for a license?**

\_\_\_\_\_ Yes    \_\_\_52\_\_\_ No

9. "Thank God!"

**Question #6**

**Has any member of the board's staff requested you send your application in accompanied with a blank check to obtain a license?**

\_\_\_\_\_ Yes    \_\_\_52\_\_\_ No    \_\_\_\_\_ No Response

**Question #7**

**Are you satisfied with your dealings with the Massage Therapy Board? If not, please explain.**

\_\_\_46\_\_\_ Yes    \_\_\_2\_\_\_ No    \_\_\_4\_\_\_ No Response

7. "██████████ is not consistent with her professional personality when with customers on the phone. She has been helpful at times and very rude at other times."

9. "1) No correspondence – from the Board at all written last 5 years! (except for this form!) 2) Very difficult to get anyone in the office!"

26. "Random "audits" should more effectively target illegal, unethical rule-breakers – not found by just going down the list in the yellow pages!!"

51. "They do not call or email you if you leave a question on voicemail."

**Question #8**

**What do you think is the most significant issue currently facing the practice of providing massage therapy services in Alabama?**

1. No comment
2. "Although I haven't had any problems; some of my colleagues are having trouble with the ordinances in certain areas."
3. "Insurance billing. If Massage Therapist were able to bill for ins., many more people would benefit."
4. No comment
5. "There are a variety of services that seem to be massage that are offered by folks calling these services by names other than massage therapy and therefore practicing with 5-7 day training. (i.e. Phoenix Rising yoga therapy, Thai yoga therapy, even Thai massage and Tibetan (Buddhist) massage.)"
6. No comment
7. "insurance billing"
8. "unlicensed massage therapists"
9. "Fee regulations"
10. No comment
11. No comment
12. No comment
13. No comment
14. "non-licensed therapist"
15. "The fact that the general public is unaware of how to locate establishments."
16. No comment
17. "Lack of insurance reimbursement for massage practice without medical involvement"
18. No comment
19. No comment
20. No comment
21. "The local business license charges whatever they want!"
22. "education to the public"
23. "Maintaining a high level of education for massage therapy students"
24. No comment
25. "We need more done to push the issue of massage therapy as a medical treatment in order to be recognized by insurance co. The massage treatments prescribed by a doctor should be covered."
26. No comment
27. "Individuals that think massage is a relaxing and a sexual action should take place."
28. "Ensuring the professionalism of the therapeutic massage by restricting any illicit/sexual behavior"
29. "N/E"
30. "Making sure that the people of Alabama understand that massage therapy is more than just for relaxation, it is also for medical relief."

## *Massage Therapy Establishment Questionnaires*

31. "Qualified therapists – all of the therapists graduating from [REDACTED] (Mobile) are no good. I have spoken with other people and they say the same thing. They may pass test but are poor workers!"
32. "We need a stronger crack down on people practicing massage w/o a license (state) or w/o a current (state) license. State licensing Not Est. licensing."
33. "Keeping therapist protected from other establishments that provide bodywork and pose as therapists and that CEU's are current."
34. "The most significant issue to me is that in this state major insurance companies do not pay for massage therapy."
35. No comment
36. "Public education of the health benefits of massage in order to help change negative public opinion."
37. No comment
38. "unlicensed providers"
39. "getting rid of "sexually oriented" business licenses and being treated as equal healthcare providers so insurance can cover it."
40. "For me it would be lobbying insurance companies to pay a (unintelligible) for therapeutic massage as they do in (unintelligible) southern states."
41. "?"
42. No comment
43. "The AMTA just sent out a member alert stating Alabama Board of Massage Therapy is pushing legislation to increase license fee. It is on <http://www.almtbd.state.al.us/BdMinutes.htm> Aug 2005 meeting"
44. "How establishment license is verified? Accountable? Does every therapist required to have such? Are business required to report license of therapists who practice on the premises?"
45. "No real concerns – "
46. "People not abiding by licensing requirements. Your office erroneously issued a license to someone who failed the NCTMB test."
47. No comment
48. No comment
49. "Everything is alright."
50. No comment
51. "HIPPA"
52. "Insurance for the salon to cover massage – no one really sells it."

### **Question #9**

#### **How has the board addressed the issue?**

1. No comment
2. "Processing now; I think"
3. "Yes, we are all trying to see progress."
4. No comment
5. "Not aware that they have"
6. No comment

*Massage Therapy Establishment Questionnaires*

7. No comment
8. No comment
9. "No."
10. No comment
11. No comment
12. No comment
13. No comment
14. "I am not sure!"
15. No comment
16. No comment
17. "I'm not aware of any action being taken pro or con"
18. No comment
19. No comment
20. No comment
21. "have not conveyed my dismay at the amount B'ham charges – it is outrageous."
22. "unsure"
23. "requiring National Certification for license"
24. No comment
25. No comment
26. No comment
27. "They respond to written complaints"
28. "I don't know"
29. No comment
30. "Not sure"
31. No comment
32. "Slow, but improving. Maybe the board needs more staff or help with this problem."
33. "To new to the state to know"
34. "I'm sure of it (unintelligible)."
35. No comment
36. "I am not aware of how this has been addressed. Perhaps a campaign on public awareness or a statewide "massage therapy" week would be helpful in promoting a positive image of massage therapies."
37. No comment
38. No comment
39. No comment
40. No comment
41. "?"
42. No comment
43. "I plan to go to the email address and put in my two cents. Like all new presidents No New Taxes – just increase the old."
44. "?"
45. "N/A"
46. No comment
47. No comment
48. No comment

- 49. "No issue."
- 50. No comment
- 51. "No"
- 52. "Force insurance carriers to carry it."

**Question #10**

**Please feel free to discuss any matters of concern to you not addressed by this questionnaire.**

- 1. No comment
- 2. No comment
- 3. No comment
- 4. No comment
- 5. No comment
- 6. No comment
- 7. "Board members are hard to get in touch w/& not very expedient in answering or replying nor are they very understanding of the problem at hand."
- 8. No comment
- 9. "Help promote and distribute continuing education opportunities (I am a provider for NCBTMB!)"
- 10. No comment
- 11. No comment
- 12. No comment
- 13. No comment
- 14. No comment
- 15. No comment
- 16. No comment
- 17. "What is the Sunset Committee? What is their purpose? What is this questionnaire designed to determine, or what is the purpose?"
- 18. No comment
- 19. "I really don't see the need for a state license fee, an establishment license fee and a city license fee. This is a bit much! I am renting a room from a hair dresser who pays an establishment fee and I was shocked to see all the licensing fees when I got into this business. With all these fees and the continued education fees, its hard to make any money in this business. I pay out 30% to salon owner 16% for taxes I'll need to keep at least 25% or more to go into the business and at this rate I'll be making the least amount. I don't see a great future in the business. P.S. Lower fees would help!"
- 20. No comment
- 21. No comment
- 22. No comment
- 23. "website has been very helpful sending a money order is a bit of a hassle credit card or check would be much easier for payment for licenses. Need more clarity on when an establishment license is necessary. Thank you."
- 24. No comment

*Massage Therapy Establishment Questionnaires*

25. "Our office occasionally receive calls and requests for "type" of massage that is available in Birmingham at the "Oriental" spas. It's insulting to know that those places are still allowed to operate. I know a lot has been shut down, but apparently there are still some offering more than massage. I know the board has worked hard at trying to keep our profession respectful. So when I receive such calls, I just laugh and politely tell them to go back to Birmingham."
26. No comment
27. No comment
28. No comment
29. "We always thank you for your every efforts."
30. No comment
31. No comment
32. "I feel that establishment licenses should only be required for massage therapist that have larger offices of more than one staff number. I don't feel that a est. license is as important for massage therapist that rent a small room somewhere and has no employees. For small (person) operations – a state license, county license, city license should be sufficient enough. Thanks."
33. "I feel that if you are a licensed massage therapist you should not have to purchase a massage therapy establishment license from the board. It is redundant. A spa or other establishment should do so and provide with there license the name and license # of the therapists working in there establishment. If it is in place to make money for the board it is there for the wrong reasons. The city of Huntsville could careless if I have this license for the establishment, they only want to know that I am a licensed therapists by the State of Alabama."
34. No comment
35. No comment
36. No comment
37. No comment
38. No comment
39. "It would be nice to have a better screening process on CEU providers to avoid scams. It would also be awesome to have a variety of CEU's offered with different price ranges. Nurses have more available for next to nothing. I value what is provided and the providers fee and time, but as a single mother prices can get costly. The last one I paid a few hundred dollars for and it was a scam! I appreciate the help I did get, but it would help to check these people out! Thank you!"
40. "Overall I am pleased with my experience working in Alabama. I appreciate the board's efforts on my behalf."
41. "Be sure est. are legal not just a front for something else....(Like Centerpoint Massage places)"
42. No comment
43. "I am very pleased with the Massage Therapy Board. I have called and did get to talk to a Board Member personally without leaving a message and wait on a return call. They don't need to go up on licenses."
44. "Therapist should be required to show license on demand-even with any reported ('unintelligible' or not) non license "therapist"."

*Massage Therapy Establishment Questionnaires*

- 45. "Thank you"
- 46. No comment
- 47. "Is it appropriate for cosmetologist to advertise massage? It's a line that is to vague. Thank you."
- 48. No comment
- 49. No comment
- 50. No comment
- 51. "Massage therapists that make out/house calls only should not have to pay for an establishment license."
- 52. No comment

**Complainants**

**A questionnaire was sent to thirty-six (36) complainants. Eighteen (18) responded.**

**Question #1**

**Did the Massage Therapy Board acknowledge the receipt of your complaint?**

Yes 7 No 10 No Response 1

**Question #2**

**Did the Board resolve your complaint in a timely manner?**

Yes 4 No 4 No Response \_\_\_\_\_ Was not informed 10

**Question #3**

**Were you satisfied with the Board's efforts to resolve your complaint?**

Yes 2 No 10 No Response 6

5. "No response from them."

6. "I don't know what happened"

8. "Not aware they pursued the complaint because I have not heard anything. Possibly it's pending, not sure."

17. "ABSOLUTELY NOT!"

**Question #4**

**Was there anything else the Board could have done to better resolve your complaint? If yes, please explain.**

Yes 11 No 3 No Response 4

1. "The lady doing the massage is still at [REDACTED] Shopping Center and still doing massage \$70 for 1 hour and never get you off your stomach. I now go to "[REDACTED]" and they are very professional and very well trained in the service of massage therapy."
2. "Provided some kind of response to my complaint!"
3. "Nothing was done about my complaint. The person was told who made the complaint but the person continues to practice without a license and nothing has been done. I do not file complaints anymore. It appears to be a waste of time. We need a new board."

## Complainant Questionnaire

4. "The complaints that have come from me were word-of-mouth. Usually from the public about other message therapist and sexual issues. I'm under the impression I would not be told about complaint matters unless I put my name down as a complainant. I would like for the investigator to be educated on massage so they understand the nature of all complaints, not just sexually based complaints. Or let the public know they can complain if they feel like they have been violated in any way."
5. "I have no idea since I was not informed."
6. No comment
7. No comment
8. "Confirm receipt of the complaint and inform the person of the next process."
9. "It would have been nice if the board had let me know that the complaint was received. I do not need to know the results of the investigation. The board is responsible for following up on the complaints and enforcing the law."
10. No comment
11. "Investigated allegations of complaint and followed up with complainant as the resolution(s) of complaint. I placed a complaint that a LMT of Mississippi is teaching at an Alabama School of Massage without an Alabama massage license or application of reciprocity. Why do we have a board; if regulations aren't being properly managed? That is my largest?"
12. "To let me know they received the complaint."
13. No comment
14. "The board could have notified me."
15. "1) Keep me informed of the investigation. 2) post the findings (investigation) on the website when you promised."
16. "To receive notification that the complaint was received."
17. **"First of all I want to state that I think that the way the board has responded to my complaint has been an ABSOLUTE DISGRACE!. I THINK THAT ANYONE ONE THE ON THE MASSAGE THERAPY BOARD, THAT HAS HAD ANY SAY OR AUTHORITY TO DISMISS THIS CASE SHOULD BE ASSED TO RESIGN THEIR POSITION OF AUTHORITY IMMEDIATLEY. I THINK THAT TO ALLOW A PERSONAL FRIEND OF THE ACCUSED TO DETERMINE THE PUNISHMENT OF THE ACCUSED IN THIS CASE ALLOWS A COMPROMISED VERDICT IN THIS CASE.** First or all I want to state that when I received a determination of this case I was absolutely *flabbergasted*. I could not believe that a responsible board of examiners would not have **permanently** removed Ms. [REDACTED]'s license for gross violations of ethical, - professional integrity, moral, and sexual conduct. I was under the impression that the board was designed to protect the public from ethical moral and sexual abusives. **Ms. [REDACTED]'s indiscretions are absolutely supported by DNA analysis.** Ms. [REDACTED] received a copy of the DNA report on 8/05/2005. This supports that my now ex-husband is the father of Ms. [REDACTED]'s son. Ms. [REDACTED]'s son was born on 07/15/2005, which puts her conception date at 10/15/2004. At this time I was legally wedded to [REDACTED] and had been since 08/10/1991. This also places the time of conception within **the time period that Ms [REDACTED] was working at my business and receiving direct referrals** to her from me. As

- an aside to the already submitted information. Since 08/05/2005 Ms. [REDACTED] has knowingly and willfully committed welfare fraud to the State of Alabama by stating that she does not know who the father of her child is, while maintaining a co-habital relationship with Dr. [REDACTED], who was at the time of conception my husband. It is the Massage Boards duty to discourage and eliminate any abuses or abusive therapist, to protect not only the clients of a therapist, but also those that employ the therapist. By allowing Ms. [REDACTED] to continue to practice under a valid Alabama license shows a complete disregard of the safety and well being of your constituents. As a side, if Ms. [REDACTED] had been my massage therapist at another location (such as the [REDACTED] where she is currently working) the YMCA would have had a \$100,000 Law suit against them for allowing sexual misconduct, and **extremely** unethical behavior by their employees. **As not only as victim, but as an employer, as a unsuspecting client of Ms. [REDACTED] I ask you to review this case and permanently remove Ms. [REDACTED] license.** I have enclosed a copy of all previous correspondence. Additional documentation is available upon your request. **To do short of removing Ms. [REDACTED]'s license is to disgrace yourself and your office. Please do what is right."**
18. "As a board member, I have to stay out of current complaints to avoid being uneligible as cases come before the board."

## **Appendices**

### **Statutory Authority**

#### **CHAPTER 43. MASSAGE THERAPISTS.**

##### **§ 34-43-1. Short title.**

**Current through End of 2005 Regular Session**

**This chapter shall be cited as the "Alabama Massage Therapy  
Licensure Act."**

**(Acts 1996, No. 96-661, p. 1060, § 1.)**

##### **§ 34-43-2. Legislative findings and intent.**

**Massage therapy is declared by the Legislature to be a professional therapeutic health service. The Legislature finds that in the practice of massage therapy, there is a necessity to preserve and protect individual life and health, to promote the public interest and welfare by establishing licensure requirements and assuring public safety. It is the intent of this chapter to establish a regulatory agency and procedures that will ensure that the public is protected from the unprofessional, improper, unauthorized, and unqualified practice of massage therapy. All persons engaged in the practice of massage therapy in this state shall meet the requirements set forth in this chapter.**

**(Acts 1996, No. 96-661, p. 1060, § 2; Act 2000-704, p. 1430, § 1.)**

##### **§ 34-43-3. Definitions.**

**For purposes of this chapter, the following terms shall have the following meanings:**

- (1) Advertise. Distributing a card, flier, sign, or device to any person or organization, or allowing any sign or marking on any building, radio, television, or by advertising by any other means designed to attract public attention.**
- (2) Board. The Alabama Board of Massage Therapy created pursuant to this chapter.**
- (3) Board-approved massage therapy school. A school where massage therapy is taught which is one of the following:**

- a. If located in Alabama is accredited by the Department of Education and approved by the board as meeting the minimum established standards of training and curriculum as determined by the board.
  - b. If located outside of Alabama is recognized by the board and by a regionally recognized professional accrediting body.
  - c. Is a postgraduate training institute accredited by the Commission on Accreditation for Massage Therapy.
- (4) **Establishment.** A site, premises, or business where massage therapy is practiced by a licensed massage therapist.
  - (5) **Examination.** A National Certification For Therapeutic Massage and Bodywork Examination administered by an independent agency or another nationally or internationally accredited exam administered by an independent agency per approval of the board. The examination will be accredited by the National Committee for Certifying Agencies. The board retains the right to administer a written, oral, or practical examination.
  - (6) **License.** The credential issued by the board which allows the licensee to engage in the safe and ethical practice of massage therapy.
  - (7) **Massage therapist.** A person licensed pursuant to this chapter who practices or administers massage therapy or touch therapy modalities to a patron for compensation.
  - (8) **Massage therapy instructor.** A licensed massage therapist approved by the board to teach the practice of massage therapy.
  - (9) **Person.** Any individual, firm, corporation, partnership, organization, association, or other legal entity.
  - (10) **Sexually oriented business.** A sex parlor, massage parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult motel, or other commercial enterprise which has as its primary business the offering for sale, rent, or exhibit, or the exhibit of, items or services intended to provide sexual stimulation or sexual gratification to the customer.
  - (11) **Student of massage therapy.** Any person currently enrolled in an Alabama massage therapy school program approved by the board.
  - (12) **Temporary permit.** A temporary permit issued at the request of a massage therapist who is qualified according to the Alabama massage therapy law prior to approval by the board and not to exceed six months.
  - (13) **Therapeutic massage and related touch therapy modalities.** The mobilization of the soft tissue which may include skin, fascia,

tendons, ligaments, and muscles, for the purpose of establishing and maintaining good physical condition. The term shall include effleurage, petrissage, tapotement, compression, vibration, stretching, heliotherapy, superficial hot and cold applications, topical applications, or other therapy which involves movement either by hand, forearm, elbow, or foot, for the purpose of therapeutic massage. Massage therapy may include the external application and use of herbal or chemical preparations and lubricants such as salts, powders, liquids, nonprescription creams, mechanical devices such as T-bars, thumpers, body support systems, heat lamps, hot and cold packs, salt glow, steam cabinet baths or hydrotherapy. The term includes any massage, movement therapy, massage technology, myotherapy, massotherapy, oriental massage techniques, structural integration, or polarity therapy. The term shall not include laser therapy, microwave, injection therapy, manipulation of the joints, or any diagnosis or treatment of an illness that normally involves the practice of medicine, chiropractic, physical therapy, podiatry, nursing, occupational therapy, veterinary, acupuncture, osteopathy, orthopedics, hypnosis, or naturopathics.  
(Acts 1996, No. 96-661, p. 1060, § 3; Act 2000-704, p. 1430, § 1.)

**§ 34-43-4. Regulated activities.**

Except as specifically provided by this chapter, beginning January 1, 1997, no person may do any of the following unless licensed pursuant to this chapter:

- (1) Advertise that he or she performs therapeutic massage or related touch therapy modalities.
- (2) Hold himself or herself out to the public as a massage therapist, using any name or description denoting himself or herself as a massage therapist, or purporting to have the skills necessary to perform massage therapy.
- (3) Practice massage therapy.

(Acts 1996, No. 96-661, p. 1060, § 4.)

**§ 34-43-5. Exemptions.**

(a) The following persons shall be exempt from this chapter:

- (1) A student of massage therapy who is rendering massage therapy services under the supervision of a licensed massage therapy instructor, or any other supervisory arrangement recognized and

- approved by the board, including, but not limited to, a temporary permit. The student shall be designated by title clearly indicating the training status of the student.
- (2) Qualified members of other professions who are licensed and regulated under Alabama law while they are in the course of rendering services within the scope of their license or regulation, provided that they do not represent themselves as massage therapists.**
  - (3) A person giving massages to his or her immediate family.**
  - (4) Visiting massage therapy instructors from another state, territory, or country teaching massage therapy, provided that the massage therapy instructor is licensed or registered as required in his or her place of residence. Visiting massage instructors teaching continuing education courses may teach in the state up to 100 hours per year without an Alabama license. One hundred hours of continuing education instruction or more shall require licensure.**
  - (5) Members of the Massage Emergency Rescue Team (MERT) or any other nationally or internationally recognized disaster relief association who practice massage therapy in the state only during a time declared by the Governor to be a city, county, or state emergency. These therapists may work in the state for a period of time approved by the board.**
  - (6) Native American healers using traditional healing practices, provided, however, Native American healers who use these practices but apply for a license pursuant to this chapter shall comply with all licensure requirements.**
  - (7) A person acting under the supervision of a physician, a physical therapist, or a chiropractor within the scope of their license or regulation, provided that they do not represent themselves as massage therapists.**
  - (b) Nothing in this chapter shall be construed to permit massage therapists licensed under this chapter to administer, dispense, or prescribe drugs, or engage in the practice of medicine in any manner, including, but not limited to, diagnosing or prescribing drugs for mental, emotional, or physical diseases, illnesses, or injuries.**
- (Acts 1996, No. 96-661, p. 1060, § 5; Act 2000-704, p. 1430, § 1.)**

**§ 34-43-6. Alabama Board of Massage Therapy.**

- (a) There is created the Alabama Board of Massage Therapy. The purpose of the board is to protect the health, safety, and welfare of the public by ensuring that licensed massage therapists, massage therapy schools, and massage therapy instructors meet prescribed standards of education, competency, and practice. To accomplish this mission, the board shall establish standards pursuant to this chapter to complete all board functions in a timely and effective manner and to provide open and immediate access to all relevant public information. The board shall communicate its responsibilities and services to the public as part of its consumer protection duties. The board shall develop and implement a long range plan to ensure effective regulation and consumer protection.**
- (b) The board shall consist of seven members appointed by the Governor, subject to confirmation by the Senate. No member of the board shall serve more than two full consecutive terms. The members initially appointed to the board shall be appointed not later than July 16, 1996. Five of the members initially appointed to the board shall have been actively engaged in the practice of massage therapy for not less than three consecutive years prior to the date of their appointment to the board. Successor members to these initial five appointees shall be licensees of the board. Two members shall be public members who shall not be licensed, nor have been licensed in the past, and shall not have any direct financial interest in the massage therapy profession. Each board member shall be a high school graduate or shall have received a graduate equivalency diploma. Each board member shall be selected upon personal merit and qualifications, not per membership or affiliation with an association. Each board member shall be a citizen of the United States and a resident of this state for two years immediately preceding the appointment. Minority representation on the board shall reflect the racial diversity of the state.**
- (c) Of the initial seven appointees to the board, three members shall be appointed for terms ending September 30, 1997, and four members shall be appointed for terms ending September 30, 1999. Thereafter, successors shall be appointed for terms of four years, each term expiring on September 30.**
- (d) Vacancies on the board occurring prior to the expiration of a term shall be filled by the Governor within 30 days of the vacancy to**

- serve for the remainder of the unexpired term. Each member of the board shall serve until his or her successor has been duly appointed and qualified.
- (e) At the first meeting, and annually thereafter in the month of October, the board shall elect a chair and vice chair from its membership.
  - (f) The board shall hold its first meeting within 30 days after the initial members are appointed. The board shall hold meetings during the year as it determines necessary, two of which shall be the biannual meetings for the purpose of reviewing license applications. Additional meetings may be held at the discretion of the chair or upon written request of any three members of the board. A quorum of the board shall be a majority of the current appointed board members.
  - (g) Board members shall not receive compensation for their services, but shall receive the same per diem and allowance as provided to state employees for each day the board meets and conducts business.
  - (h) The board shall promulgate the rules necessary to implement this chapter pursuant to the Administrative Procedure Act.
  - (i) The board may employ, and at its pleasure discharge, an executive secretary and other officers and employees which may be necessary, including an attorney, to implement this chapter. The board shall also outline the duties and fix the compensation and expense allowances of the employees.
  - (j) An affirmative vote of a majority of the members of the board shall be required to grant, suspend, or revoke a license to practice massage therapy or a license to operate a massage therapy establishment.
  - (k) The board shall be financed only from income accruing to it from fees, licenses, other charges and funds collected by it, and any monies that are appropriated to it by the Legislature.
  - (l) Each board member shall be accountable to the Governor for the proper performance of his or her duties as a member of the board. The board shall report to the Governor annually and at other times as requested by the Governor. The Governor shall investigate any complaints or unfavorable reports concerning the actions of the board and take appropriate action thereon, including removal of any board member for misfeasance, malfeasance, neglect of duty, commission of a felony,

- incompetence, or permanent inability to perform official duties.  
A board member may be removed at the request of the board after failing to attend two consecutive properly noticed meetings.
- (m) Members of the board are immune from liability for all good faith acts performed in the execution of their duties as members of the board.
  - (n) Appointees to the board shall take the constitutional oath of office and file it in the office of the Governor before undertaking any duties as a board member. Upon receiving the oath, the Governor shall issue a certificate of appointment to each appointee.
- (Acts 1996, No. 96-661, p. 1060, § 6; Act 2000-704, p. 1430, § 1.)

**§ 34-43-7. Powers and duties of board.**

- (a) By rule, the board shall make provisions to do all of the following:
  - (1) Examine and qualify for examination applicants for licensure and issue a license to each successful applicant.
  - (2) Adopt a seal, which shall be affixed to all licenses issued by the board.
  - (3) Prescribe application forms for examination and licensure and assess and collect fees pursuant to this chapter.
  - (4) Maintain a complete record of all licensed massage therapists and annually prepare a roster of the names and addresses of the licensees. A copy of this roster shall be made available to any person requesting it, upon payment of a fee set by the board in an amount sufficient to cover the costs of its publication and distribution.
  - (5) Provide for the investigation of persons who may be violating this chapter.
  - (6) Adopt and revise rules and regulations pursuant to the Administrative Procedure Act, including the adoption of rules concerning unprofessional conduct.
  - (7) Provide a copy of this chapter to all persons licensed under this chapter and to all applicants for licensure.
  - (8) Adopt rules that require massage therapists to carry professional and general liability insurance with an "A" rated or better insurance carrier in the amount of at least one million dollars (\$1,000,000). The massage therapist shall produce evidence of coverage upon request of the board.
  - (9) Have other powers necessary and proper for the performance of official duties.

**(b) By rule, the board may do any of the following:**

- (1) Accept or deny the application of any person applying for licensure as a massage therapist upon an affirmative vote of a majority of the board.**
  - (2) Establish criteria for certifying massage therapy instructors.**
  - (3) Adopt an annual budget and authorize necessary expenditures from fees and other available appropriations, provided, in no event shall the expenditures of the board exceed the revenues in any fiscal year.**
  - (4) Adopt a code of ethics.**
  - (5) Provide for the inspection of the business premises of any licensee during normal business hours.**
  - (6) Establish a list of approved massage therapy schools.**
- (Acts 1996, No. 96-661, p. 1060, § 7.)**

**§ 34-43-8. License requirement; sexually oriented businesses; services for clients who are ill or who have physical dysfunctions.**

- (a) No person may perform the duties of a massage therapist unless he or she possesses a current license issued pursuant to this chapter.**
- (b) A licensed massage therapist may not perform massage therapy, whether or not for compensation, for a sexually oriented business.**
- (c) A licensed massage therapist shall not advertise or offer to perform services outside the scope of his or her expertise, experience, and education for clients who are ill, or those with physical dysfunction(s), unless such services are performed in conjunction with a licensed physician, physical therapist, or chiropractor.**

**(Acts 1996, No. 96-661, p. 1060, § 8.)**

**§ 34-43-9. Application for license; educational requirements.**

- (a) A person desiring to be licensed as a massage therapist shall apply to the board on forms provided by the board. Unless licensed pursuant to subsection (b), applicants for licensure shall submit evidence satisfactory to the board that they have met each of the following requirements:**

- (1) Satisfactorily completed a minimum of 500 hours of supervised courses of instruction which shall include, but not be limited to, anatomy, pathology, physiology, massage techniques, clinical practices, ethics, health, hygiene, and related subjects. The board shall determine how the 500 hours of instruction shall be broken down. The course of instruction may be provided by a massage**

therapy school approved by the board. The minimum 500 hours shall consist of the following: 325 hours dedicated to the study of basic massage therapy techniques and clinical practice related modalities; 125 hours dedicated to the study of anatomy, pathology, and physiology; and an additional 50 hours of discretionary related course work, including, but not limited to, hydrotherapy, business practices and professional ethics, health and hygiene, and cardiopulmonary resuscitation and first aid. Beginning January 1, 1998, applicants for licensure shall be required to complete a minimum of 650 hours of instruction. By rule of the board, the minimum 650 hours shall consist of the following: 100 hours of anatomy and physiology to include 35 hours of myology, 15 hours of osteology, 10 hours of circulatory system, and 10 hours of nervous system, with the remaining 30 hours to address other body systems at the discretion of the school; 250 hours of basic massage therapy, the contradistinctions of massage therapy, and related touch therapy modalities, to include a minimum of 50 hours of supervised massage; 50 hours to include business, hydrotherapy, first aid, cardiopulmonary resuscitation, and professional ethics; and 250 hours of electives to be determined by the school. The board may adopt a rule to further increase the minimum number of hours of instruction required for licensure, not to exceed the number of hours recommended by the National Certification Board for Therapeutic Massage and Bodywork. Before performing therapeutic massage on an animal, a massage therapist shall graduate from a nationally approved program and complete at least 100 hours of postgraduate training and education in animal anatomy, pathology, and physiology for the type of animal upon which the massage therapist wishes to perform therapeutic massage.

- (2) Passed the National Certification Exam for Therapeutic Massage and Bodywork offered by the National Certification Board for Therapeutic Massage and Bodywork or an examination of equivalent stature that is accredited by the National Committee for Certifying Agencies.
- (b) Notwithstanding the requirements in subdivisions (1) and (2) of subsection (a), the board may license an applicant if the applicant is licensed or registered in another state, which, in the opinion of the board, has standards of practice or licensure that are equal to

- or stricter than the requirements imposed by this chapter.
- (c) Notwithstanding any other provision of this section to the contrary, each applicant for licensure shall be a citizen of the United States.
  - (d) The board may notify each applicant of the acceptance or rejection of his or her application. If the application is rejected, the board shall list the reasons for rejection.
- (Acts 1996, No. 96-661, p. 1060, § 9; Act 2000-704, p. 1430, § 1; Act 2001-1103, 4th Sp. Sess., p. 1166, § 1.)

**§ 34-43-10. Massage therapist examination.**

- (a) In the event that a massage therapist's examination is required, it shall be conducted at the times and places and under the supervision determined by the board. The board shall notify each applicant of the time and place of the examination.
  - (b) The board may determine by rule the scope, form, and content of the examination, which shall consist of a written examination and a practical examination or oral interview. The examination shall adequately measure the knowledge of the applicant of the practice of massage therapy. Professional testing services may be utilized.
  - (c) An applicant shall successfully pass the examination in order to be eligible for licensure as a massage therapist. The board shall notify each applicant in writing of the results of the examination. Any applicant who fails to pass the examination may take the examination again upon application and payment of an additional examination fee. No applicant shall be allowed to take the examination more than twice in a two-year period.
  - (d) All examinations shall be conducted in a manner so that the applicants are known to the board by number until the examination is completed and the grade determined. A record of each examination shall be filed with the board office and available for inspection for a period of two years following the examination.
- (Acts 1996, No. 96-661, p. 1060, § 10; Act 2000-704, p. 1430, § 1.)

**§ 34-43-11. Licensing of establishments.**

- (a) Establishments shall be licensed by the board. A sexually oriented business may not be licensed as an establishment and shall not operate as an establishment licensed pursuant to this chapter.
- (b) Establishments shall employ only licensed massage therapists to perform massage therapy.
- (c) The board shall provide by rule, for a fair and reasonable procedure

- to grant exemptions from the licensure requirement of this section when the applicant can show that the advertising of massage therapy services is incidental to the primary function of his or her business. No such exemption shall be granted to a sexually oriented business.
- (d) An establishment license issued pursuant to this chapter is not assignable or transferable.
  - (e) Subsequent to an official complaint, the board may request a criminal background check of the establishment's licensees through the district attorney of the circuit in which the licensee is located.
- (Acts 1996, No. 96-661, p. 1060, § 11; Act 2000-704, p. 1430, § 1.)

**§ 34-43-12. Application forms; issuance of license; display of license.**

- (a) Applications for licensure or renewal shall be on forms provided by the board and shall be accompanied by the proper fee. The application shall be legible, either printed in black ink or typed. Applications sent by facsimile shall not be accepted. A two-by-two photograph, taken no more than six months earlier, showing a frontal view of the head and shoulders of the applicant, shall be submitted with the application. All documents shall be submitted in English.
- (b) The board shall issue a license to each person who qualifies to be a massage therapist and to each qualified massage therapy establishment. To be qualified for a license as a massage therapist the applicant shall successfully pass the examination, pay the examination fee, and pay the license fee. A license grants all professional rights, honors, and privileges relating to the practice of massage therapy.
- (c) Each licensed therapist shall display his or her license in the manner specified by the board. Each establishment shall post its license in plain sight and the license of each massage therapist who practices in the establishment.
- (d) A license is the property of the board and shall be surrendered upon demand of the board.

(Acts 1996, No. 96-661, p. 1060, § 12.)

**§ 34-43-13. License renewal; reinstatement.**

- (a) Each license shall be renewed biennially, on or before the anniversary date, by forwarding to the board a renewal

- application accompanied by the renewal fee. Any license not renewed biennially on or before the anniversary date shall expire.
- (b) Each licensee, upon application for renewal of a license, shall submit evidence of satisfactory completion of the continuing education requirements contained in Section 34-43-21.
- (c) Licenses are valid for two years from the date of issuance. An individual whose license has expired and who has ceased to practice massage therapy for a period of not longer than five years may have his or her license reinstated upon payment of a renewal fee and a late fee and submission of a renewal application and evidence satisfactory to the board that the applicant has fulfilled continuing education requirements and passed the examination.
- (d) Subsequent to an official complaint, the board may request a criminal background check of the licensee through the district attorney of the circuit in which the licensee is located.
- (Acts 1996, No. 96-661, p. 1060, § 13; Act 2000-704, p. 1430, § 1.)

**§ 34-43-14. Fees; Alabama Board of Massage Therapy Fund.**

- (a) By rule, the board shall initially assess and collect the following fees not to exceed:
- (1) One hundred sixty dollars (\$160) for the examination.
  - (2) One hundred dollars (\$100) for the initial massage therapist license which shall be issued for one year. The initial licensing fee shall be assessed in the month when the applicant is notified that the license has been approved.
  - (3) One hundred dollars (\$100) for all biennial license renewals postmarked or received at the office of the board by the date in which the license expires.
  - (4) Twenty-five dollars (\$25) for the initial application for licensure or the resubmission of the initial application.
  - (5) One hundred dollars (\$100) for the initial establishment license.
  - (6) Fifty dollars (\$50) for the biennial renewal of the establishment license.
  - (7) Fifty dollars (\$50) for the initial registration as a massage therapy school in this state.
  - (8) Ten dollars (\$10) to renew the registration as a massage therapy school.
  - (9) Ten dollars (\$10) to register as a massage therapy instructor in this state. This is a one-time fee and does not have to be renewed.

- (10) Seventy-five dollars (\$75) to reactivate an inactive license.**
  - (11) Twenty-five dollars (\$25) shall be added to all license fees not post-marked or received by the board before the expiration date of the license.**
  - (12) Fifteen dollars (\$15) to verify a license.**
  - (13) Ten dollars (\$10) for a duplicate license certificate or a name change on a license certificate. The board may issue a duplicate certificate only after receiving a sworn letter from the massage therapist that the original certificate was lost, stolen, or destroyed. The records of the board shall reflect that a duplicate certificate was issued.**
  - (b) Necessary administrative fees may be charged by the board, including, but not limited to, reasonable costs for copying, labels, and lists. Examination and license fees may be adjusted as the board shall deem appropriate.**
  - (c) There is hereby established a separate special revenue trust fund in the State Treasury to be known as the Alabama Board of Massage Therapy Fund. All receipts collected by the board under the provisions of this chapter are to be deposited in this fund and used only to carry out the provisions of this chapter. Such receipts shall be disbursed only by warrant of the state Comptroller, upon itemized vouchers approved by the chair of the board; provided that no funds shall be withdrawn except as budgeted and allotted according to the provisions of Sections 41-4-80 to 41-4-96, inclusive, 41-19-1, and 41-19-12, as amended, and only in amounts as stipulated in the general appropriations bill or other appropriations bills.**
- (Acts 1996, No. 96-661, p. 1060, § 14.)**

**§ 34-43-15. Suspension and revocation of license.**

- (a) The board may suspend, revoke, or refuse to issue or renew a license or impose a civil penalty after notice and opportunity for a hearing pursuant to the Administrative Procedure Act, upon proof of any of the following:**
  - (1) The license was obtained by means of fraud, misrepresentation, or concealment of material facts, including making a false statement on an application or any other document required by the board for licensure.**
  - (2) The licensee sold or bartered or offered to sell or barter a license for a massage therapist or a massage therapy establishment.**

- (3) The licensee has engaged in unprofessional conduct that has endangered or is likely to endanger the health, safety, and welfare of the public, as defined by the rules of the board.**
- (4) The licensee has been convicted of a felony or of any crime arising out of or connected with the practice of massage therapy.**
- (5) The licensee has violated or aided and abetted in the violation of this chapter.**
- (6) The licensee is adjudicated as mentally incompetent by a court of law.**
- (7) The licensee uses controlled substances or habitually and excessively uses alcohol.**
- (8) The licensee engaged in false, deceptive, or misleading advertising.**
- (9) The licensee had a license revoked, suspended, or denied in any other territory or jurisdiction of the United States for any act described in this section.**
- (b) Any person who has been convicted of, or entered a plea of nolo contendere to, a crime or offense involving prostitution or other sexual offenses is ineligible to hold a license as a massage therapist for a period of at least three years after the entry of the conviction or plea. The board retains the right to revoke a license indefinitely if the licensee is proven guilty of a crime or of sexual misconduct. Reinstatement of licensure is contingent upon proof of weekly counseling by a licensed professional counselor.**
- (c) Any person who has been convicted of, or entered a plea of nolo contendere to, an offense involving prostitution or any other type of sexual offense may not receive a license for a massage therapy establishment for a period of three years after the date of conviction or entry of the plea. The board shall revoke the establishment license of any establishment which the board determines is a sexually oriented business. The board may revoke an establishment license if a person is convicted of, or enters a plea of nolo contendere to, any crime involving prostitution or any other sexual offense against a client which occurred on the premises of the establishment.**
- (d)(1) Upon finding a person, governed by this chapter, performing massage therapy without having obtained a license, the board may do any of the following:**
  - a. Impose an administrative fine of not more than ten thousand dollars (\$10,000).**
  - b. Issue a cease and desist order.**

- c. Petition the circuit court of the county where the act occurred to enforce the cease and desist order and collect the assessed fine.
- (2) Any person aggrieved by any adverse action of the board must appeal the action to the Circuit Court of Montgomery County in accordance with the Alabama Administrative Procedure Act.
- (Acts 1996, No. 96-661, p. 1060, § 15; Act 2000-704, p. 1430, § 1.)

**§ 34-43-16. Use of words "massage" or "bodywork" or other advertising descriptions by non-licensed persons.**

A person who does not hold a license as a massage therapist, physical therapist, chiropractor, or athletic trainer, or a license for an establishment, shall not use the words "massage" or "bodywork" on any sign or other form of advertising describing services performed by the person or at the establishment. Any advertisement by a massage therapist or establishment shall contain the license number of the therapist or establishment. Under no circumstances may a sexually oriented business hold itself out as offering massage therapy services.

(Acts 1996, No. 96-661, p. 1060, § 16.)

**§ 34-43-17. Criminal penalties.**

Any person who violates this chapter shall be guilty of a Class C misdemeanor.

(Acts 1996, No. 96-661, p. 1060, § 17.)

**§ 34-43-18. Injunction; civil penalty.**

**Current through End of 2005 Regular Session**

**Historical Notes    References**

- (a) In addition to the criminal penalties prescribed by this chapter, the board may seek an injunction against any person or establishment in violation of this chapter.
- (b) In an action for an injunction, the board may demand and recover a civil penalty of fifty dollars (\$50) per day for each violation, reasonable attorney fees, and court costs.

(Acts 1996, No. 96-661, p. 1060, § 18.)

**§ 34-43-19. Construction with other regulations.**

- (a) Except as otherwise provided in subsection (b), this chapter shall supersede any regulation adopted by a political subdivision of the state related to the licensing or regulation of massage therapists

and massage therapy establishments.

**(b) This section shall not affect:**

**(1) Local regulations relating to zoning requirements or occupational license taxes pertaining to massage therapists and massage therapy establishments.**

**(2) Local regulations that do not relate to the practice of massage therapy by qualified persons.**

**(c) A county, or a municipality within its jurisdiction, may regulate persons licensed pursuant to this chapter. Regulation shall be consistent with this chapter. This section shall not be construed to prohibit a county or municipality from regulating persons not licensed pursuant to this chapter.**

**(Acts 1996, No. 96-661, p. 360, § 19.)**

**§ 34-43-20. Massage therapy schools; instructors.**

**(a) To be approved by the board, a massage therapy school shall meet the following requirements:**

**(1) File a completed application prescribed by the board with the board and pay a registration fee as specified in Section 34-43-14.**

**(2) Provide documentation of a curriculum which includes a minimum number of required hours of instruction in the subjects required pursuant to Section 34-43-9.**

**(3) Register annually with the board by filing a renewal form accompanied with the renewal fee pursuant to Section 34-43-14, and submit a current curriculum and a list of instructors.**

**(b) Every instructor teaching course work titled massage therapy at a board approved school located in Alabama shall be licensed in Alabama as a massage therapist and registered as a massage therapy instructor. Instructors who are not teaching massage therapy do not need to be registered. Any adjunct instructors shall be dually licensed in the state where they reside, be nationally certified, or both.**

**(c) The board shall register as a massage therapy instructor any applicant who meets all of the following requirements:**

**(1) Is currently licensed as a massage therapist in Alabama.**

**(2) Has filed a completed application prescribed by the board and paid a one-time application fee pursuant to Section 34-43-14.**

**(3) Documents two years of experience in the practice of massage therapy. The documentation may be considered by the board on a case-by-case basis.**

**(Acts 1996, No. 96-661, p. 360, § 20.)**

**§ 34-43-21. Continuing education.**

- (a) Every massage therapist licensed pursuant to this chapter shall be required to complete 16 hours of continuing education as a condition for renewing his or her license. The continuing education courses shall be offered by providers approved by the board. The courses shall have been completed within the 24 months preceding the date renewal is due. Hours in excess of the total number required may not be carried over to future renewals. The continuing education requirements shall not apply to a massage therapist within the biennium when the massage therapist is first licensed, but shall apply to licensees every biennium thereafter. The board may accept for compliance with the continuing education requirement any of the following:**
- (1) Courses or providers which contribute directly to the massage therapy education of the licensee.**
  - (2) Courses, seminars, workshops, and classes in areas related to the practice of massage therapy such as: Massage, bodywork, allied health care fields (including psychology and medicine), anatomy and physiology, business, insurance, movement therapy, stress management, yoga, CPR, and advanced first aid.**
  - (3) Courses of study offered by registered massage therapy schools in Alabama, or by massage therapy instructors registered with the board, or by any national organization in the field of massage therapy or related touch therapy field.**
- (b) Up to 25 percent, or four hours of credit, of the required number of hours of continuing education may be earned in each of the following areas:**
- (1) Teaching a qualifying class, course, seminar, or workshop.**
  - (2) Publishing an article in the field relating to massage therapy.**
  - (3) Speaking on the subject of massage therapy.**
  - (4) Being a panelist discussing massage therapy.**
  - (5) Participating in a personal growth class.**
  - (6) Two hours of professional ethics.**
- (c) Each of the areas listed in subsection (b) may be used for up to four hours of credit depending on the actual contact hours. One continuing education credit is defined as no less than 50 uninterrupted minutes of learning, except that publishing an article will automatically count for four hours. Continuing**

- education credit may not be awarded for programs which do not relate to subjects listed in this section, or for repeated courses submitted the previous biennium, except for courses listed in subsection (b). The board may select, in a random manner, license renewal applications for audit of continuing education credit. Each licensee shall be responsible for maintaining in his or her personal files the certificates or records of credit from continuing education programs received from approved program providers. Each licensee selected for audit shall be required to produce documentation of attendance at those continuing education activities listed on his or her renewal application.
- (1) The board shall send to each licensee selected for audit, a notice of audit. The licensee shall provide satisfactory documentation of attendance at, or participation in, the approved continuing education programs listed in the renewal application.
  - (2) The licensee shall ascertain that the continuing education program is approved by the board.
  - (d) The board shall evaluate applications from all providers of continuing education programs, including massage therapy schools and instructors, in order to determine if approval shall be granted or denied.
    - (1) The provider or licensee shall submit to the board an application on a form provided by the board. Only applications which are complete will be considered.
    - (2) The provider or licensee shall submit a complete application to the board at least 60 days prior to the date on which the training event is to be given to gain approval before the program is presented.
  - (e) The board is subject to the Alabama Sunset Law of 1981, and is classified as an enumerated agency pursuant to Section 41-20-3. The board shall automatically terminate on October 1, 2007, and every four years thereafter, unless continued pursuant to the Alabama Sunset Law.
- (Acts 1996, No. 96-661, p. 1060, § 21; Act 2000-704, p. 1430, § 1; Act 2004-76, § 3.)

## Smart Budgeting Documents

State of Alabama		AGENCY NAME: Board of Massage Therapy		Agency No. 365	
EBO Form No. 4b		FY 2006 SMART OPERATIONS PLAN		Page 1 of 1	
		ACTUAL FY04	BUDGET FY05	BUDGET FY06	
<b>MISSION</b>	To protect the public by licensing and regulation qualified massage therapists who have been trained to perform massage therapy services and have pledge to conduct themselves ethnically and professional. (Code Sec. 34-43-1) (Governor's Priorities 1 & 5)				
<b>VISION</b> (Optional)					
<b>VALUES</b> (Optional)					
<b>CRITICAL ISSUES</b>					
(Optional)					
Internal					
External					
<b>PROGRAM</b>	Professional and Occupational Licensing and Regulation Board	(\$ in _____)	\$109.0	\$150.0	\$125.0
<b>ACTIVITY</b>	Certification and Regulation of Massage Therapists	(\$ in _____)	\$109.0	\$150.0	\$125.0
<b>MISSION</b>					
<b>GOAL(S)</b>	To broaden public awareness through newsletters, web sites and advertising. To strengthen the massage therapy law through legislation. To complete complaint investigations within 60 days of complaint receipt.				
<b>WORKLOAD</b>					
<b>CRITICAL ISSUES</b>					
Internal	To expedite the complaint/disciplinary process.				
External	To ensure that all massage therapists offering services to the public are licensed.				
<b>OBJECTIVES</b>					
Spending	To increase spending by no more than 20%.	(\$ in _____)			
		(\$ in _____)			
Staffing		( FTE)			
Efficiency	Maintain unit cost of licensing and file maintenance				
Quality	Complete 80% of consumer complaint investigations within 60 days of receipt				
<b>STRATEGIES</b>	To issue licenses as quickly as possible. To work with associations and entities to assist in educating the public regarding massage therapy. To pass legislation for the Board to re-evaluate the fees of the Board. To pass legislation for the Board to close certain loopholes of the law.				

<b>Smart Quarterly Performance Report</b>												
<b>Fiscal Year: 2006</b>												
Agency: 365 Massage Therapy Board												
Org:												
Program: 653 PRO AND OCCU LICENSING AND REG												
Activity: 0491 MASSAGE THERAPY BOARD												
<b>Performance Measures</b>												
<b>Workload/Cost Factor</b>	Performance Indicator	First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual		
		Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Actual
WC1: To increase disciplinary hearings by 5%	# of Hearings	1	0	1	0	1	0	1	0	4	0	0
<b>Spending</b>	Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Actual
		116,750	85,084	3,250	0	2,500	0	2,500	0	125,000	0	0
SP1: To decrease spending by 5%	\$											
<b>Efficiency</b>	Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Actual
		116,750	86,084	3,250	0	2,500	0	2,500	0	125,000	0	0
EF1: Maintain unit cost of licensing and file maintenance	\$											
<b>Quality</b>	Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Actual
		5	0	5	0	5	0	5	0	20	0	0
QU1: Complete 80% of consumer complaint investigations within 60 days of receipt	# of Investigations											

## Board Members

### **Alabama Board of Massage Therapy Board Members**

Tammie Friedrichs, Chair  
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Term: 4/12/05 – 9/30/08

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Term: 4/12/05 – 9/30/08

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Massage Therapist Position  
Caucasian Male  
Term: 12/21/01 – 9/30/05

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Massage Therapist Position  
Caucasian Male  
Term: 4/12/05 – 4/12/08

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Massage Therapist Position  
African American Female  
Term: 12/21/01 – 9/30/05

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Massage Therapist Position  
African-American Female  
Term: 2/18/05 – 9/30/07

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Term: 4/9/01 – 9/30/04

